

NEW REGULATIONS MAY HELP CONTROL THE COST OF DEALING WITH EXCESS CONSTRUCTION SOILS

By **Jeff Goldman**

For too long, the rules concerning excess soil management in Ontario have existed in a shadowed netherworld, plagued by confusing standards, vague regulations, indifference and outright abuse.

However, the Ontario government's announcement late last year regarding new regulations for the management of excess soil from construction projects is a game changer.

These new regulations will mean greater transparency and accountability in excess soil management practices and will modernize our industry. When coupled with an appropriately resourced implementation program, they also have the potential to provide a foundation upon which Ontario can build world leadership in its excess soil management practices.

However, regulation without user buy-in is not enough. Notwithstanding the process that has allowed industry representatives to have a voice in shaping the new regulations, we recognize that there is often a disconnect between how we should be operating and the realities on the ground. Old ways die hard. This is particularly true in the construction industry, which tends to be family-centric in ownership, multi-generational and tradition bound.

As a land developer, I first became interested in the matter of excess soil management several years ago as a result of asking what I thought was an innocent question of my consulting engineer on one of our projects. Being a curious fellow and, since I am ultimately responsible for paying the tab for expenses related to excess soil being exported from my site, I enquired of my engineer: "So what do you do with all of this soil?"

The response I received was so startling and outrageous that I had to check its veracity for myself. So, I consulted with fellow developers, other engineers, general contractors, soil haulers and



The best excess soil management outcome is when none is required. Creative and beneficial on-site reuse of excess soil should be top of mind.

receivers. They confirmed the essence of what my engineer had said, which was, in Ontario, virtually all excess soil transactions are controlled by one individual and that person is referred to on a first name basis only. Now, I suppose you want to know who this person is and I am here to reveal his name to you. His name is Guy, as in "what do you do with all of this soil?... Don't worry, I've got a Guy!"

Let me be clear that the "I've got a Guy" response was not provided on a "wink-wink/nudge-nudge" basis, as if something untoward were occurring. What startled me about this consistent response from so many quarters, however, was its inherent inefficiency. What if my engineer's "Guy" doesn't know of some other "Guy" who might be able to receive my excess soil at a lower cost?

Could it be that the lynchpin of this billion-dollar industry that has significant impact on our environment rests upon the shoulders of an old-boys network, utilizing local gossip, landlines and

rolodexes for its communication infrastructure? These questions caused me to ask stakeholders, experts and regulators for further information, in order to better understand the state of the industry. Here is what I discovered.

First, the cost of dealing with excess soil management is of increasing concern to the development industry. Rising costs are often attributable to a scarcity of receiving facilities which, partially, has been a result of some municipalities imposing restrictions on receiving excess soil generated from beyond their boundaries. Excess soil costs can impact significantly on construction pro formas. Yet, many developers pay little attention to the matter and simply consider such costs to be part of doing business and don't give much thought to how efficiencies might be achieved.

Project leaders and general contractors, who are often tasked with the logistics of dealing with excess soil management needs, tend to leave such arrange-

ments to late in their planning processes. This results in last minute scrambles, drama and heightened costs, as a home needs to be found expediently for excess soil in order not to hinder construction scheduling.

Those involved in the chain of custody of excess soils, specifically generators, haulers and receivers, remain married to an antiquated, paper-based ticket system for tracking and cost reconciliation. Such systems are inefficient, prone to misuse, and can be a nightmare for back-office accounting.

All of this has been occurring in the context of a regulatory framework that has been confusing, vague and difficult to enforce. Even when enforcement has occurred, it often only resulted in light penalties. So where has been the incentive to change?

In Ontario, dealing with excess soil results in hundreds of thousands of metric tonnes of greenhouse gas emissions generated annually by diesel dump trucks transporting tens of millions of cubic metres of excess soils during millions of trips. Then, there are the estimated billion dollars in costs to deal with excess soil from construction projects.

Developers need to wake up and pay attention to their excess soil costs. In many cases, they are bleeding money unnecessarily and need to demand better outcomes from consultants in this area.

Project managers need to plan for excess soil needs earlier in the project scheduling than has often been done. In reality, the best excess soil management outcome is when none is required. Creative and beneficial on-site reuse of excess soil should be a top of mind goal.

For those involved in the chain of custody regarding excess soil movement, in particular generators, haulers and receivers, there are far more reliable, efficient and time-saving options to the paper ticket system. If, however, you remain steadfast in your resolve to eschew the digital age, good luck in using paper systems to comply with the tracking and record retention requirements of the new regulations. You will be buried in documents.

To those involved in academia and those who are members of professional or business associations representing stakeholders in excess soil management activities, I recommend the following:

- Do the proper research.
- Educate your constituencies about best management practices.
- Agree about and improve the qualifications for those designated as Qualified Persons.

Municipal governments have the absolute right and responsibility to control dump truck traffic with regards to noise, dust, routing and road degradation. However, if they closed their doors to receiving construction soils generated from beyond their boundaries primarily because of concern regarding the provenance of the soil, the new regulations go a long way to assuring that what you see is what you get.

Couple that with new soil tracking and accountability technologies in use today and the objection to receiving such soils crumbles. They are also missing out on opportunities that other municipalities, who have adopted advanced provenance compliance requirements as a condition of accepting outside soils, enjoy. These include restoration of ugly and sometimes dangerous exhausted extraction sites and transforming them

into community amenities, as well as a share of tip fees from these activities to fill their coffers.

Construction financiers and risk underwriters, I query why you are so cavalier with your money. You need to start requiring efficient, transparent and verifiable excess soil management plans as a condition of lending or insuring.

Change in this industry is coming and it will require us to revisit our long-held attitudes and practices in order to provide better outcomes. The smart money will bet on those ready to give excess soil the attention, respect and practice modernization it deserves. ■

This article was excerpted from the author's keynote speech delivered to the Canadian Urban Institute's 2019 Excess Soil Symposium, attended by about 400 engineers, geoscientists, industry and government representatives.

Jeff Goldman is with SoilFLO Inc. Email: jeff.goldman@soilflo.com



Trusted by
**THE LARGEST
DIRT MOVERS**

The Leading Provider Of Soil Management Software

SoilFLO helps construction and environmental teams save time and reduce costs on tracking, record-keeping, and compliance.



REDUCE COVID-19 CONCERNS
Quickly go paperless on-site, keep your staff safe.

MOVING DIRT?

Contact us to learn how we can save you time and money on soil management.

www.SOILFLO.com 1-833-967-7645