******

***Recommendations by DRHCA for Submission RE: Proposed On-Site and Excess Soil Management Regulation and related amendments to O. Reg. (Ontario Regulation)) 153/04 and O.Reg.3 (Ontario Regulation) 47, Meeting May 23, 2019***

Durham Region Heavy Contractors Association (DRHCA) being a industry association of contractors, subcontractor & suppliers providing their services within the geographical area of Durham Region and areas east and north. Our contractor members are heavily involved in the excavation, both in-situ and vacuum excavation and are greatly impacted by previous and the changes proposed here, on their ability to efficiently and effectively provide their services. Given the opportunity here, we offer the following concerns and recommendations:

.

***Concerns and Recommendations:***

* As the earth collected in the vacuum excavation collection for development site work and municipal utility construction and reconstruction is for the purposes of exposing existing utilities ie. safety prevention and occurs on either on land generally already tested or municipal/provincial roadways and chemistry on soil, known and determined not impacted in order to proceed, the ESA for the receiving site should not be to the standard of a waste landfill and the process to receive licensing available within a reasonable timeline. ECA licensing for surplus excavated solid earth should not require ESA licensing. As an alternative, the vac truck loads be rated by land use where loads from an industrial commercial area would go to an ESA receiving site, and residential parkland institutional agricultural land base, would go to a site where regular testing characterizes the soil
* The existing process for receiving filling permits is fragmented area to area, and involves duplication of approving authorities, compounding both cost and timelines required to process. Presently many areas involve both Conservation Authorities & Municipalities and the significant time in permit application process time and requirements, and results in incompatible conditions of the two governing permitting authorities without a process to mediate the differences nor a defined timeline to process applications. Further, the authority should not be able to regulate products such as recycled granular, aggregate or processed topsoil and have it charged as soil product
* Propose exemption for both permit & tipping fees based on volume by CA & municipalities for disposal of topsoil for reuse or disposal at a topsoil retailer ie. future resale. Consideration of exemption from all fees at land banking facility to encourage future reuse. Also, the time limit allowed for soil bank has to be examined and lengthened so that reuse can be realized efficiently & effectively
* In performing municipal utility & road reconstruction projects, projects are tendered and awarded within 30 days, requiring projects to be initiated within 30 additional days. As such, the industry requires a defined timelines for processing permits​ in order to meet the contractual demands
* Recommend that the filing and processing of permits, mediating of permit conditions from various parties, would be more optimally managed at the highest level of municipal government level ie. Regional level of government, where it exists
* Recommend that Provincial MNR Licensed Aggregate Pits & Quarries be allowed to rehabilitate the aggregate pits & quarries by managing displaced material from suppling aggregates to private and municipal projects, while the extraction process proceeds (currently often restricted either totally or until after depleted). Further, presently fill allowed into a licensed pit is required to be Table 1 and propose a revision to Table 2 or at minimum, allowing fill that is equal to or less than the quality of the material being extracted
* **Enforcement** section added from staff proposed bylaw giving a wide range of inspection and investigative powers to an officer;
* **Orders** section added from staff proposed bylaw give Town a range of powers to better govern fill sites, including the ability to require soil testing, remove fill deemed to be in non-compliance, remediate lands, or, where an order has been ignored, perform the work on their own at the land-owners expense with a 20% administrative charge added to the total costs.
* **Penalties** section added from staff proposed bylaw gives the Town the ability to fine a permit holder for non-compliance up to a $100,000, in addition to costs associated with remediating the land, removing the placed fill, and returning the grade of the land to its original condition.

***Conclusion :***

DRHCA provides the above with the highest regard for working with the governing authorities in developing workable regulations that both protect the environment while providing a critical and necessary service for the necessary upgrading of the existing underground infrastructure including roads and for future development. Managing responsible beneficial reuse of excess soils is in everyone’s best interest.