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November 28, 2014

John Minor  
Technical Services  
City of Toronto

**Re: Policy for Accepting Potentially Contaminated Lands to be  
Conveyed to the City under the *Planning Act*.**

Dear Mr. Minor:

On behalf of the Ontario Environment Industry Association (ONEIA), we are writing to provide comments on the proposed revised “Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the *Planning Act*.”

**About ONEIA**

ONEIA is the business association representing the interests of the environment industry in Ontario. ONEIA was established in 1991 by the private sector to promote environment business to industry and government in the province. Our members include companies recognized for both their domestic and international expertise in technology, consulting and the related legal, financial and insurance services. Through their innovation and experience in Ontario and around the world, our members provide market-driven solutions for society's most pressing environmental problems. Our commitment is to provide feedback to government based on sound science, sound policy and sound economics.

**General Comments**

We thank you for the opportunity to meet with you on November 27<sup>th</sup> and earlier in June and July of this year and to provide further comments on the proposed policy amendments. This is an important document because it impacts not only the City of Toronto through land conveyance, but also development in general in the City. Many of our previous comments have been addressed in the current draft of the proposed policy; however, some concerns still remain.

As expressed in our meeting, there are issues surrounding a Qualified Person or their firm being able to provide documents and reliance. A firm or their representative can only provide reliance on their own work and not the work of others. Additionally, reliance cannot be provided on work that is out of date. Reliance can be provided on current documents such as those prepared in accordance with Ontario Regulation 153/04, as amended.

With regards to certifications requested, some language (e.g. “does not pose an adverse effect”) may be interpreted as providing a guarantee. While the City may wish guarantees, they need to be aware that the Qualified Person’s insurance will not cover guarantees. Invalidating the Qualified Person’s insurance coverage is not in the best interest of the City or the consultant. The guarantee thus does not provide the City with financial assurances since there is no insurance to back it up. A statement that provides similar information without guarantees can provide more financial protection for the City.

The proposed City policy has restrictions on use of standards developed using the MOECC’s approved model. This includes generic standards for stratified soil conditions, importation of soil to a site, and depth of fill covered when capping a site. The MGRA model is the same model that is used in the development of the generic soil and groundwater standards. The MGRA approach is based on science developed and tested by MOE scientists and has been designed with input from a broad range of stakeholders. The MGRA approach has been developed to ensure that subsurface workers are provided the same level of protection as workers at sites cleaned up to generic soil and groundwater standards. This means that the MGRA model specifically evaluates and accounts for the protection of subsurface workers to deep soils under a stratified site condition, without the use of extraordinary health and safety requirements. There is no difference and no less protection of worker health for a stratified condition, for a cap of 1 m depth, or for importation of soils up to property specific standards developed using the MGRA model. There are no assumptions of or need for subsurface worker protection beyond that accepted by the City of Toronto and used for general health and safety purposes for such work. We concur that the risk management option for additional worker health and safety measures in the draft version 2 of the MGRA is not appropriate to the way that the City manages their lands and understand that the need for monitoring at a property to be conveyed should be addressed outside of the current policy.

We commend the City for referencing the MOECC’s soil best management practices (BMP) in the proposed policy and suggest that wording be sought whereby the risk assessment approach briefly mentioned in the BMP is not in contradiction to other language in the City’s policy.

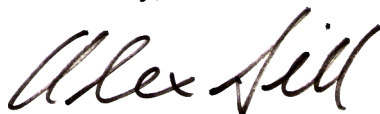
## Conclusions

In conclusion, ONEIA is pleased with the progress made by the City in amending the proposed policy. We are confident that further refinements to wording of a limited number of clauses in the policy will make it a workable document. We commend the City for modifying the draft policy to allow for some uses of the MGRA approach but would encourage future consideration of accepting additional aspects of the MGRA approach including stratified standards and acceptance of the default model site capping depth. We believe that use of the MOECC's soil BMP and MGRA approach, including stratified site conditions, are consistent with our policy of supporting sound science, sound policy and sound economics. Use of the MGRA approach is certainly consistent with MOE's mandate to protect health and the environment in the Province as well as being consistent with the City's mandate to protect worker health, public health and the environment. By streamlining the environmental approvals process, this tool will allow more Brownfield sites to be addressed within the City's borders, and thereby better address the City's mandate.

ONEIA's Brownfield committee and members appreciate the opportunity to work with the City of Toronto now and in the future to help establish appropriate Brownfield policies that meet the City's objectives and promote Brownfield development in an appropriate way recognizing that new approaches such as the BMP provide for a better more environmentally suitable way to address brownfield conditions and re-use soils locally that are suitable. As you can appreciate, the use of sound policy will contribute to Toronto's economy and jobs.

Thank you again for the opportunity to provide our feedback. To follow up on our comments or should you have any questions, please contact the co-chairs of our Brownfields Subcommittee, Cecile Willert ([CWillert@pinchin.com](mailto:CWillert@pinchin.com) / 416-368-6555 ext. 1925) or Janet Bobechko ([jbobechko@blaney.com](mailto:jbobechko@blaney.com) / (416) 596-2877).

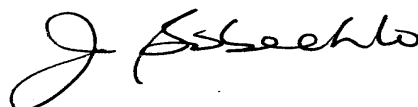
Yours truly,



Alex Gill  
Executive Director



Cecile Willert  
Co-chairs, Brownfield Sub-committee



Janet L. Bobechko

Cc: Craig Kelly, Graham Rempe, Brian Haley