

Conservation and Reclamation INFORMATION LETTER

Borrow Excavations

BACKGROUND

A new class of specified land called borrow excavations has been created. The *Conservation and Reclamation Regulation* and the *Activities Designation Regulation* have been amended to reflect this change. Prior to these amendments, borrow excavations were treated as pits.

Borrow excavations are subject to the *Environmental Protection and Enhancement Act* (EPEA) and the *Conservation and Reclamation Regulation* (CRR).

This Information Letter provides guidance to operators of borrow excavations.

DEFINITIONS

The following definitions come from EPEA and its regulations. Operators are cautioned that terms such as *borrow* and *borrow pit* may have different meanings in reference to regulatory requirements under other acts (e.g., the *Public Lands Act*) or in common usage in the road construction industry. **Operators must be aware of the usage of the terms *borrow excavation* and *pit* and their regulatory implications under EPEA.**

Borrow excavation (CRR s. 1(b.1)) means an excavation in the surface made solely for the purpose of removing, opening up or proving borrow material for the construction of the sub-base for a specific roadway project, and includes any associated infrastructure connected with the borrow excavation.

Borrow excavations occur outside the roadway right-of-way. Excavations inside the right-of-way are treated as part of the right-of-way and are subject to the *Environmental Protection Guidelines for Roadways* (Information Letter under development).

There are three types of borrow excavations: landscape, dugout and backslope.

Roadway (CRR s. 1(r)) means a highway or road as defined in the *Public Highways Development Act*.

Under that Act, highway or road means land used or surveyed for use as a public highway or road, and includes a bridge forming part of a public highway or road and any structure incidental to the public highway or road or bridge.

For the purposes of this Information Letter, "roadway" includes:

- Primary Highways;
- Secondary Highways;
- Roadways on Federal lands where the right-of-way has been transferred to provincial jurisdiction;
- Local roadways (Township, Range, Forced, Easement);
- Roadways constructed with a rural cross-section design (no curb and gutter);
- Roadways providing access to country residential subdivisions, resort subdivisions, or recreational areas which will be under municipal jurisdiction after construction.

"Roadway" does not include:

- Roadways on Federal Lands where the right-of-way has not been transferred to provincial jurisdiction;
- Roadway held under License of Occupation issued under the *Public Lands Act* (Note: this is under discussion and may change);
- Private driveways or lanes;
- Roadways constructed with an urban cross-section design (curb and gutter);

- Roadways solely used for agricultural purposes;
- Access roadways associated with other types of specified land (e.g., wellsite and pit access roads, mine haulroads). They are regulated by the requirements of those particular activities.

For further information on the regulatory expectations for roadways, see the *Environmental Protection Guidelines for Roadways* (Information Letter under development).

Pit (EPEA s. 1(ww)) means an excavation in the surface made for the purpose of removing, opening up or proving sand, gravel, clay, marl, peat or any other substance, and includes any associated infrastructure, but does not include a mine or quarry.

In addition to the normal meaning of the term, the following are included in the definition of pits:

- Excavations made for the purpose of removing, opening up or proving material for the granular base, the asphalt stabilized base or asphaltic concrete, or for pit run, or drainage material for roadways.
- Excavations made for construction of roadways held under License of Occupation issued under the *Public Lands Act*.
- Excavations with multiple purposes (e.g., roadway borrow plus some other purpose).

Pits are regulated as outlined in the *Guide for Pits*.

Operator means the Local Road Authority (Alberta Infrastructure or a municipal authority) or a principal or agent for the Local Road Authority. Contractors are agents of the Local Road

Authority and will be considered operators when a contractor is required to supply borrow and the contractor makes all the arrangements.

However, if the contractor is no longer in business, the Local Road Authority may be considered the operator since the excavation was created solely to supply the road that was built at the direction of the Local Road Authority.

APPROVALS

As a result of the amendment to the *Activities Designation Regulation*, borrow excavations do not require an approval under the *Environmental Protection and Enhancement Act*. Existing approvals will be terminated. However, operators should retain copies of their approval until a reclamation certificate is received. Any security held by Alberta Environment for those approvals will be returned to the approval holder.

The operator is responsible for obtaining all other necessary approvals, permits, or licenses under other legislation.

PRE-CONSTRUCTION ASSESSMENTS

Alberta Infrastructure (AI) has developed a draft document entitled *Pre-Disturbance Assessment Procedures for Borrow Excavations for Road Construction (May 1999)*. Copies are available in regional AI offices.

AI's document provides guidance on how to carry out a pre-disturbance site assessment that will:

- Establish the pre-disturbance land capability of the borrow site so it can be compared with the land capability after reclamation; and
- Provide guidance to operators for soil salvage.

AI expects contractors and consultants to use the procedures. The procedures will be re-assessed and revised if necessary. Municipal project contractors and consultants are also encouraged to use the procedures.

Alberta Environment participated on the Task Force that reviewed the procedures and supports the effort. When the document is finalized it will form part of Alberta Environment's regulatory expectations for borrow excavations.

ENVIRONMENTAL PROTECTION GUIDELINES

Alberta Infrastructure is developing a *Guide To Reclaiming Borrow Excavations Used For Road Construction*. This Guide will undergo review in the Spring of 2000. When finalized, the Guide will form part of Alberta Environment's regulatory expectations for borrow excavations. In the meantime, operators should consult the *Environmental Protection Guidelines for Pits (C&R/IL/96-5)* for Alberta Environment's expectations on how a borrow excavation should be operated.

Alberta Infrastructure will also be producing revised *Standard Specifications for Highway Construction* that will indicate their expectations for construction and reclamation of borrow excavations.

RECLAMATION CERTIFICATION

As a result of the amendment to the *Conservation and Reclamation Regulation*, borrow excavations less than 5 hectares (12.5 acres) in size are not required to obtain a reclamation certificate. However, without a reclamation certificate, the operator remains liable for conservation and reclamation issues. **Operators wishing to terminate their liability may apply for a reclamation certificate.**

Operators of borrow excavations equal to or greater than 5 hectares (12.5 acres) are still required to obtain a reclamation certificate after reclamation.

Reclamation certification criteria for borrow excavations are being developed by a Task Force chaired by Alberta Infrastructure. A first draft of the criteria was prepared and field-tested in fall of 1999. The criteria will be revised based on the 1999 field test, field-tested again in 2000, and then be released by Alberta Environment in 2001 for use by operators.

CONTACTS

For Green Area public lands:

Alberta Environment,
Land Administration Division,
3rd Floor, 9915 - 108 Street,
EDMONTON, Alberta T5K 2G8.

Phone: (780) 427-3570
Fax: (780) 422-4251

For White Area public lands:

Alberta Agriculture, Food and
Rural Development,
Public Land Management Division,
Room 200, J. G. O'Donoghue Building,
7000 - 113 Street,
EDMONTON, Alberta T6H 5T6.

Phone: (780) 427-6597
Fax: (780) 422-4244

For all other lands:

Alberta Environment,
Environmental Sciences Division,
4th Floor, 9820-106 Street,
EDMONTON, Alberta T5K 2J6

Phone: (780) 427-5883
Fax: (780) 422-4192
e-mail: land.management@gov.ab.ca