THE SOIL AND GROUNDWATER TECHNOLOGY ASSOCIATION

SAGTA REPORT 31 – WASTE MANAGEMENT – LANDFILL DIRECTIVE

Introduction

The December 2006 SAGTA workshop was hosted by National Grid and held at Studley Castle, Warwickshire. The theme of the workshop was waste management issues relating to land and in particular the impact of the Landfill Directive since its implementation some 18 months ago.

The following topics were addressed in the workshop:

- Legal perspectives: UK and European approaches to definition of waste,
- Management of materials – examples of the waste management regime in practice including the Biogenie soil treatment system at Risley, the low level waste repository at Drigg and the Olympic Park development in London
- An update on the CLUSTER project
- A perspective from the Home Builders Federation (HBF) on how waste and planning regimes could be co-ordinated to provide simpler and more effective regulation
- Comments on the National Brownfield Strategy Discussion Document: It is anticipated that the National Brownfield Strategy being developed by English Partnerships may provide clarification of waste management issues related to Brownfield Sites.
- The SAGTA meeting was held one week before National Brownfield Strategy consultation workshop on 13th December 2006. SAGTA therefore took the opportunity to discuss English Partnership's outline proposals in order to provide structured feedback for the planned consultations on the day.

Key issues

It was generally felt that the Landfill Directive has succeeded in raising waste management standards to some extent. However:

- Industry and regulators recognised at the outset that the Landfill Directive was not designed with remediation of brownfield sites in mind. Sometimes anomalies occur so that the legislation fails to make development more sustainable, but instead creates barriers to re-use of soils.
- The presentations on Drigg and Olympic Park demonstrate that it is possible to regulate high profile sites in a pro-active and sensible way. For lower profile sites, members' experience is that regulation is not always consistent.
- Some progress has been made, for example towards a more workable definition of waste. The National Brownfield Strategy was expected to take this forward and provide clear guidance. However - based on the recent discussion document – it is unclear when and whether this clear guidance will materialise.
- It was considered regrettable that there was no Environment Agency representation at the Workshop, given the current attention to the issues.

Summary of Workshop presentations

Legal Perspectives:
A key development in European case law came from the Van de Walle case where unexcavated soil, impacted by a leak at a petrol filling station, was classified as waste by the European Court. The court recognised that this judgement had 'unwanted practical consequences' - it could be interpreted that any potentially contaminated site would need a waste management licence. A contrasting view is that the judgement is only of limited application. It is not practical to apply so in practice is often ignored or circumvented by regulators.

In a recent study, NICOLE members from ten EU states completed a questionnaire on how soil contamination issues were addressed in national waste legislation. Only half of member states have guidance on this issue and overall the study highlighted inconsistencies in approach across the EU.

The EU recently consulted on amendments to the Waste Framework Directive. DEFRA proposed a specific exclusion for unexcavated contaminated soil. The WFD provides an opportunity to ensure that legislation maximises re-use of soils and does not accidentally reduce sustainability. In the UK the Environment Agency produced its 'Definition of Waste' Document in April 2006 which recognises that excavated material can be re-used within the same site, and that material brought back into commercial use will not be waste, even if not treated.

The Environment Agency is moving towards a more streamlined system of 'environmental permits'. For low risk and well understood operations it will be possible to have a standardised permit. However, bespoke permits will still be available on request and will likely be more appropriate for activities such as soil remediation. Legislation on allowable defences, enforcement notices and procedures and appeals will be standardised and there will be a single public register for Waste and PPC regimes.

Management of Materials - Soils Treatment Centres
The Biogenie soil treatment centre developed at Risley in NW England opened in 2005 and is a collaboration between Biogenie and Biffa and is based at a pre-existing landfill site. It accepts waste soils which are treated in biopiles then re-used as daily cover or restoration material for the landfill. Soils can be treated 'off-line' without delaying site re-development and very small volumes can be accepted which might not be feasible to treat on site. After treatment material is still classified as 'waste' hence it is re-used on a site which already has a waste management licence.

The history and operation of the Low Level Waste Repository at Drigg in Cumbria was described. The site is regulated both by the Environment Agency and by the Nuclear Installation Inspectorate. Waste is compacted, containerised then grouted to produce a monolithic block. The blocks are stacked in vaults and will eventually be capped. Further challenges on the site are presented by historic waste trenches dating from the 1950s onwards which used different disposal practices. The site needs to demonstrate management of future risks including coastal erosion/sea level rise, regional glaciation and human instrusion looking forward up to 60,000 years.

Management of Materials-Waste Management Strategies
Presentations covered the waste management strategy being used for the redevelopment of the Olympic Park site in east London. An objective of Olympic Park is to minimise waste to landfill and use of imported fill. The work needs to be integrated with many other stakeholders and it is critical that it is completed on programme. This is being achieved by:

- Close contact with EA and local authorities, fortnightly co-ordination meetings
- Classing the Olympic Park as one site for waste licensing purposes, despite it spanning two local authority areas, and being split between two principal contractors.

- Use of 'enhanced demolition' techniques, i.e. carrying out a pre-demolition survey and managing demolition to maximise recovery of re-usable materials.
- Early contractor involvement in site investigation and a focus on remediation design during site investigation.
- Designation of part of the site as a 'hub site' where soils from elsewhere on the site can be treated 'off-line' without delaying development.
- Plant sized and designed for worst case volumes.

Update on CLUSTER project

The CLUSTER project was started in 2001 to address the problem of managing soil sustainably on small sites where the space and time for on-site treatment might be lacking. The concept is to group sites together so material can be transferred within the group for treatment and re-use. A scoping report was produced by consultants in April 2004 to define the issues and an action plan was produced at a workshop in late 2005.

In 2006 a Code of Practice document for CLUSTER sites has been developed. An operation plan is currently being developed for the first CLUSTER site which will be in the Don valley. The scheme is due to start operating in May 2007. There is an opportunity for SAGTA to support CLUSTER by committing sites (initially small sites in the South Yorkshire area e.g. petrol filling stations) and funding.

Interface between Waste and Planning Regime

A proposal has been developed by the Homebuilders Federation (HBF) to integrate the planning and waste management regimes for new developments. There are potentially many activities on development sites which should strictly be covered by waste management legislation but in practice are not. This could be addressed by using the planning permission as a waste permit for materials handling activities. A form of self-certification based on SiLC was also proposed. Legal opinion was sought and the proposal appeared to be feasible. The proposal was then referred to the National Brownfield Strategy and the outcome is not yet known.

It was also noted that the Davidson Review, commissioned by the Cabinet Office in 2006 to look at the unnecessary impact of implementation of EU directives in UK ('gold-plating') identified duplication between the waste and planning regimes. The Davidson review also noted that uncertainty over waste guidance had impacted sustainability and urged for updated guidance to be pushed forward by the end of 2006.

SAGTA Comments on the circulated National Brownfield Strategy (NBS) Discussion Paper as it applies to waste matters.

As a prelude to the then impending English Partnerships' launch event of its National Brownfield Strategy (NBS), part of the Workshop was given over to issues that had arisen from the associated launch discussion papers. Issues are summarised below.

1. When does treated soil cease to be classified as waste?

There is a continuing need for resolution regarding the point at which treated contaminated soil ceases to be classified as waste and can therefore be re-used without the requirement for a Waste Management Licence. This is a barrier to brownfield development and is contrary to the intention of waste management legislation as it leads to material being sent to landfill where it could otherwise be reused. The Environment Agency guidance on Definition of Waste issued April 2006, and discussions in the Hazardous Waste Forum, stated that this issue would be addressed in the NBS.

However the NBS discussion paper contains no substance in this area, merely acknowledging the issue and stating that *'the issue needs to be addressed and clear guidance issued'*. SAGTA considers it is unclear whether this guidance is intended to form part of the final NBS, and if not, how it will be taken forward and by whom. It is also not clear how these issues will be taken forward in parts of the UK that are not covered by the NBS.

CLUSTER sites are mentioned and this is supported by SAGTA. It was noted that there is no reference to the role of commercial soil treatment centres which could also reduce disposal to landfill.

2. Soil Guideline Values:
The discussion paper states: *'there may be a case for two sets of values, threshold and action, being applied to each of the reuse scenarios for each SGV, with local authorities using professional judgement between the upper and lower values'*

This is interpreted as being in direct contradiction to the recent DEFRA '*Soil Guideline Value: the Way Forward'* document. The logic for opposing a single set of numbers is not clear. The general feeling in the SAGTA Workshop was that a single set of numbers avoids ambiguity and that it would be difficult to defend different levels of risk being applied, for example, to new and existing development.

3. Groundwater Issues
It was noted that the discussion paper contains no reference to groundwater issues and liabilities, which are one of the key factors which need to be addressed when redeveloping brownfield sites.

4. Plan and Timescale
The current document does not give a clear framework for describing:

- How the NBS is to be taken forward
- What will be done
- When, and
- By whom.