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NICOLE

Waste Working Group

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Contents

- Regulatory Background
- A little problem in the UK!
- Revised Waste Framework Directive
- Waste Working Group

Definition of Waste



"Waste" is defined in Article 1(a) of the European Waste Framework Directive (WFD) as *'any substance or object ... which the holder discards or intends or is required to discard'*.

No definition of discard in WFD so supported by ECJ case law rulings e.g. Palin Granit, Van de Walle

ECJ rulings are only indicative and each decision must be made based on all the facts and having regard to the aims of the WFD.

Definition of Waste



This IS Waste



This IS NOT Waste

Van Der Walle



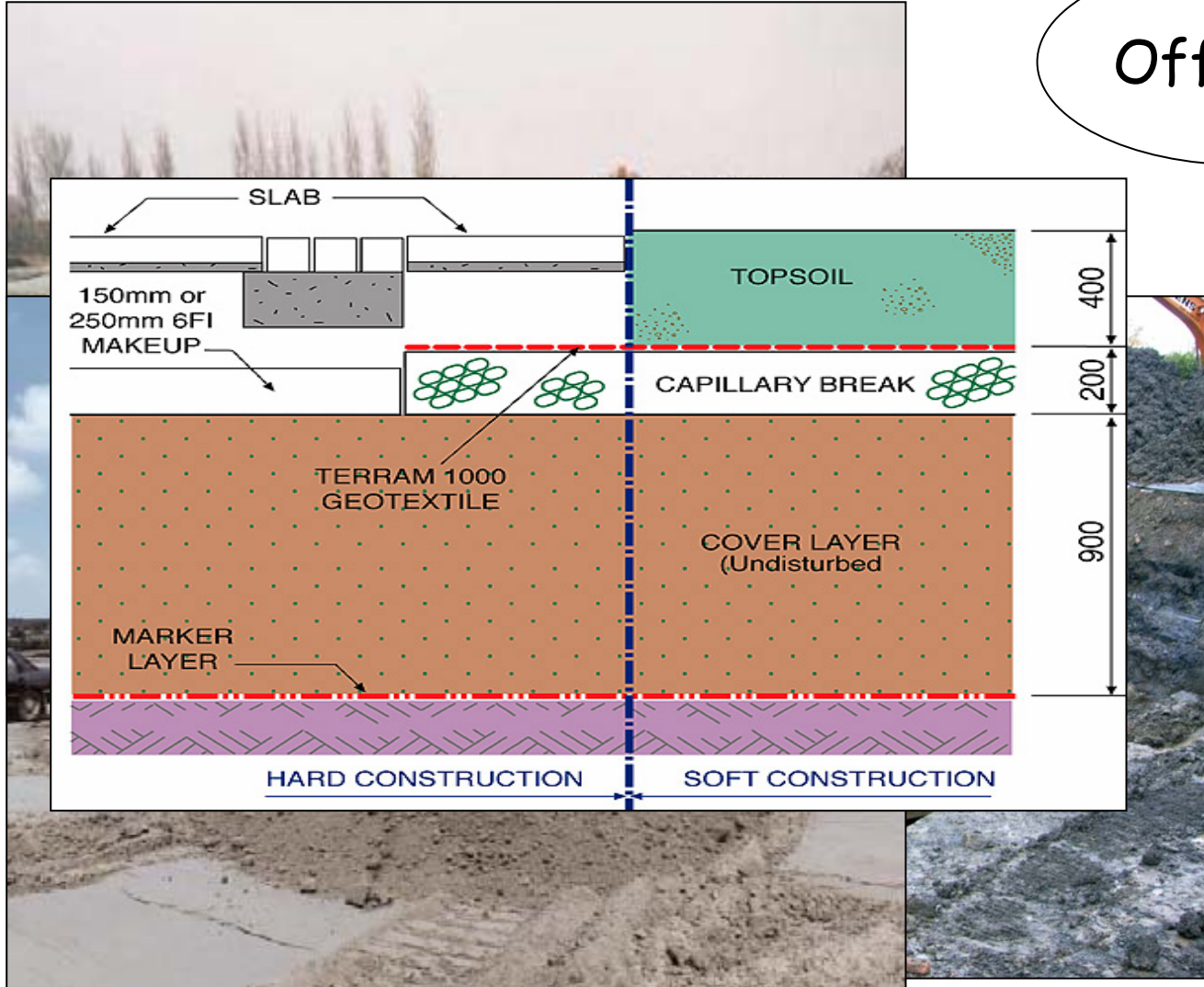
- ECJ ruling made mid 2004
- Related to spillage of hydrocarbons from Texaco oil station in Belgium
- Logical conclusion is that unexcavated contaminated soils and in situ groundwater are waste
- Severe regulatory and financial implications

Regulatory Overlap



- Overlap between contaminated land management practice and waste management requirements
- Where both applicable the regulator will opt for the more precautionary (hazard based waste regulation)
- Risk based approach undermined!

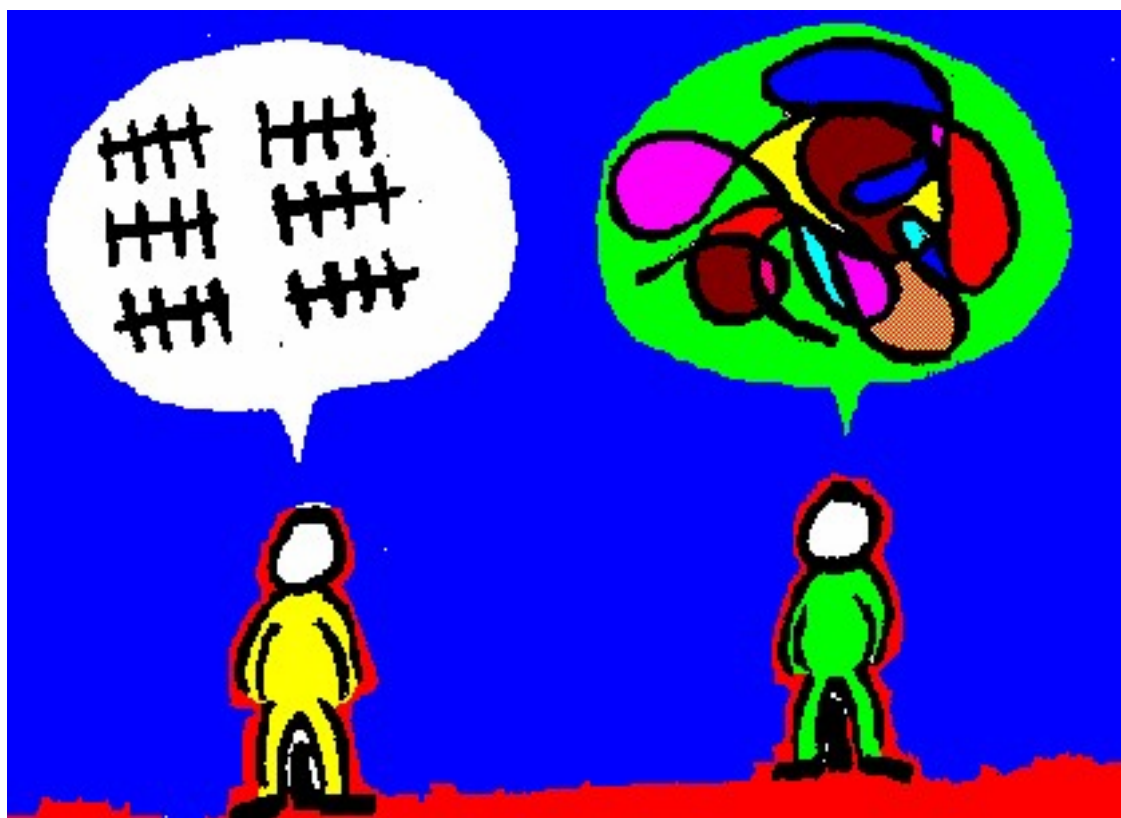
A Little Problem in the UK!



Offside!!!



Different Languages!



NICOLE Waste Study



EU study finds 'legal vacuum' on reuse of polluted soil

ENDS: January 2006

Towards a Recycling Society



- *'The Waste Framework Directive'* (75/442/EEC) was introduced in July 1975 with the objective the protection of human health and the environment: Pollution Prevention
- *'Thematic Strategy on Waste Prevention and Recycling'* looks towards the Sustainable Reuse of Materials and EU-wide environmental standards on recycling will be adopted

Waste Working Group Objectives



A revised WFD that:

- Supports the reuse, recycling and recovery of contaminated soils and related materials
- Clarifies when contaminated soil and related materials are waste and when they cease to be waste
- Supports proportionate risk based permitting and exemptions
- Supports breaking the linkage between treated contaminated soils and their classification as waste earlier in the chain of custody
- Encourages the development of risk based fit-for-purpose protocols to achieve non-waste status
- Resolves the Van Der Walle issue

A Revised WFD



- Exclusion of Unexcavated Contaminated Soil
- By-Products
- Clarification of Discard
- Ceasing to Be Waste

Added Value for NICOLE



- Support the overall theme of risk based contaminated land management
- Early warning of the potential impact of the Waste Directive on soil management
- Promotion of workable interpretation of waste law in relation to contaminated land
- Provide analysis of the key issues in the proposed modified Directive
- Identify key players in the Commission that member organisations may wish to approach

A way through the Waste Maze!

