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ADVOCACY IN ACTION

By Doug Lapp, President & CEO, ORCGA

Late locates cost contractors time and money. Late locates are neither a recent nor temporary phenomena and there is no simple, one-time fix that will alleviate the number and severity of late locates.

In light of these challenges, it is the ORCGA's responsibility to work with its 23 stakeholder groups to ensure that the province has full perspective on this important issue. Effective advocacy requires ongoing working

relationships with both government and our partners.

The chart below details the advocacy work that the ORCGA has made towards moving Late Locates in Ontario forward: 

Date	ORCGA Advocacy Efforts
Fall 2019	Ear to the Ground Improving Ontario's One Call System: Utility Locates https://www.earthtotheground-digital.com/rgcb/0219_fall_winter_2019/MobilePagedArticle.action?articleId=1521765#articleId1521765
Spring 2020	Ear to the Ground Late Locate Issue Vol. 1 https://orcga.com/publications/ear-to-the-ground/
Fall 2020	Ear to the Ground Late Locate Issue Vol. 2 https://orcga.com/publications/ear-to-the-ground/
Oct – Dec 2019	13 Geographic Council Late Utility Locates Discussions
December 2019	Geographic Council Late Utility Locates Summary https://orcga.com/wp-content/uploads/2016/11/Late-Locates-Supplement-v2.pdf
December 2019	Ontario One Call Late Locate Symposium
February 2020	Late Locates Panel Presentation – ORCGA Damage Prevention Symposium, Ottawa, ON
Oct – Dec 2020	ORCGA social media campaign focused on bringing attention to the Late Locate issue in Ontario
December 2020	ORCGA sends correspondence to Karen Hughes Deputy Minister, Ministry of Government and Consumer Services
January 2021	ORCGA meets with the Ministry of Goods and Consumer Services
March 2021	Late Locate question added to the 2021 DIRT Report – Was the locate completed within the required timeframe? p.24 https://orcga.com/wp-content/uploads/2021/03/ORGCA-409635-Dirt-Report-2021_ONLINE.pdf
March 2021	NOW is the Time to Address 'Late Locates' – Article included in the 2021 DIRT Report, p.27 https://orcga.com/wp-content/uploads/2021/03/ORGCA-409635-Dirt-Report-2021_ONLINE.pdf
Nov – Dec 2021	ORCGA representation on the Locate Working Solution Group
January 2022	ORCGA again sends correspondence to the Ministry of Government and Consumer Services with an "Expression of Interest to Increase Efficiency and Coordination of Digging Activities in Ontario"
March 2022	ORCGA Dig Safe Workshops Presentation on the Locate Solutions Working Group – Late Utility Locates Update
March 2022 – Current	ORCGA representation on the Dedicated Locator Working Committee

Streamlining Locates for Provincially Funded Projects

By Gord Reynolds, VP, Commercial Advisory & Strategy, Infrastructure Ontario, Accelerated High-Speed Internet Program, Infrastructure Ontario

The Government of Ontario has committed almost \$4B to connect every region of Ontario to reliable, high speed internet by the end of 2025. Timely and cost-effective access to accurate locates will be key to meeting the government's commitment.

In April 2021, the Ontario Legislature passed the Supporting Broadband and Infrastructure Expansion Act, 2021 (SBIEA). A key outcome of this legislation was that it enacted the Building Broadband Faster Act, 2021 (BBFA). The main purpose of the BBFA is to expedite the delivery of broadband projects of provincial significance by removing barriers to building broadband projects.

Since the introduction of the BBFA, the Province has since moved ahead with a suite of additional measures, including legislative amendment, with the goal of taking every measure possible to ensure every household and business in Ontario has access to high-speed internet.

ONTARIO UNDERGROUND INFRASTRUCTURE NOTIFICATION SYSTEM (ONE CALL) ACT, 2012

In 2012, Ontario passed the Ontario Underground Infrastructure Notification System Act (One Call Act) centralizing the utility locate system in Ontario under Ontario One Call. Utility location requests (Locate requests) are requests made by an excavator working on behalf of the company constructing in the ROW. Locate requests are submitted by the excavator to Ontario One Call who, in turn, request owners or operators of



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underground infrastructure (e.g., municipal water and wastewater pipes, natural gas pipelines, telecom fibre and electricity wires) to identify in the field the location of their buried assets so that the excavator can avoid damaging them while working in that area.

Under the One Call Act, utility owners are required to make all reasonable attempts to respond to a locate request with accurate markings in the field in five business days turnaround time, with certain exceptions.

One Call members have 10 days to agree on a dedicated locator and provide the dedicated locator mapping information, unless a different time period is agreed to. The dedicated locator then has 10 days from the date the Corporation notifies it to provide the locate, at which point the locate will be valid for 60 days unless the dedicated locator or One Call member allows for a longer time.

DEDICATED LOCATOR MODEL

As part of the Getting Ontario Connected Act, 2022, amendments were made this spring to the BBFA and the One Call Act. The amendments are designed to help One Call members to collaborate on broadband projects in a timely and efficient manner. A key amendment is that the use of a dedicated locator is now required for all designated broadband projects. Under a Dedicated Locator Model, a single locator is contracted (in this case by the project owner) to locate underground infrastructure on behalf of all infrastructure owners. Such a model provides the project owner with control over the timing of the locates. In addition, under a Dedicated Locator Model, the cost of the locate is borne by project owner and not the individual infrastructure owners.

The Dedicated Locator Model has been successful on large-scale projects

across Ontario and the industry at large has outlined the following benefits of a Dedicated Locator Model:

- Enhanced efficiency
- Reduced downtime as the locates are completed under the direction of the project owner
- Promotion of damage prevention and safer excavation practices
- Increased control: allows project owners to get locates when, where and as often as their project requires
- Better flexibility when unanticipated conflicts require project changes
- Potential to reduce reliance and burden on regular pool of public locate service providers who are also expected to complete standard locates requests for homeowners and less complex tickets

SETTING UP A DEDICATED LOCATOR

In regions that currently do not deploy dedicated locators, project owners will need work with the underground infrastructure owners to certify a Dedicated Locator. Through the stakeholder consultation process, IO learned that this is not an onerous undertaking. Once the Dedicated Locator is established, the project owner will set up a profile for the newly certified Dedicated Locator with Ontario One Call noting that the Dedicated Locator will conduct locate requests on their behalf for all their provincially funded projects.

ADDITIONAL CONSIDERATIONS

The use of the Dedicated Locator model will ensure a number of benefits and promote overall project efficiency. However, the following additional considerations should be taken to ensure that locates for provincially funded projects are not delayed.

- There is a key exclusion from the use of the Dedicated Locator Model. Locate requests relating to transmission infrastructure must still be responded to by the relevant

member, and not the dedicated locator.

- Project owners should ensure that the timing and input of locate requests are for the areas necessary for the project phase as opposed to blanket requests covering the span of the entire project area. This will reduce the backlog in the locates system and ensure that locates do not expire prior to the start of construction in the identified area. Locates for the provincially funded projects have a maximum locate 'block' of no more than 10 premises or 150m, whichever is the greater.
- Dedicated Locators must be registered with Ontario One Call with an indicator on file noting that they will be serving provincially funded projects.
- IO is working with Ontario One Call to ensure that all locate requests for the provincially funded projects be uniquely identified as provincially funded project locates to be prioritized by infrastructure owners and One Call (dispatching the requests) where a Dedicated Locator is not deployed.

LOCATES LIABILITY AND PENALTY SCHEME

While it is expected that most project owners will avail themselves of Dedicated Locators, the Province's BBFA Guideline, designed to enhance coordination and engagement among project stakeholders provides safeguards for those choosing to proceed with individual infrastructure owner locators. Pay for delay and pay for redesign provisions are prescribed in regulation under the BBFA.

This will provide project owners with recourse before the Ontario Land Tribunal (OLT) for delayed and/or inaccurate locates that result in delays to a provincially funded project.

The OLT is an independent, quasi-judicial administrative tribunal with jurisdiction that includes hearings and deciding appeals in relation to a broad range of planning and development issues, municipal

governance and other matters. Under the SBIEA, the OLT may adjudicate matters related to the BBFA. The Act sets out who is eligible to make an appeal to the OLT and the procedures that must be followed to do so. Information regarding the OLT appeals process is available on the Ontario Land Tribunal's website.

PAY-FOR-DELAY

Project owners can make a claim for damages should locates be unreasonably delayed beyond the ten-day legislated performance timeline. Any such delay also puts a burden on other infrastructure owners that provided their locates within the 10-business day performance timeline as the current locates provided expire. In this event, the infrastructure owners who responded in a timely fashion must now redeploy their locates team to the field at additional costs to complete the second locate. As such, a project owner may bring a claim against an infrastructure owner who caused a delay which resulted in a significant impact on their provincially funded project's timelines or cost. The claims for the pay-for-delay penalty scheme will be adjudicated through the OLT and must not be arbitrated by One Call.

PAY-FOR-REDESIGN

Project owners can make a claim for damages should infrastructure owners provide inaccurate locates that result in the need for redesign. It is recognized that there will be instances of error in records and separation of what's built and what is maintained in the asset management registry of infrastructure owners.

The objective of this penalty scheme is to target asset owners who repeatedly fail to update their records and mis-locate their asset despite prior notification and/or repeat incidences. The claims for the pay-for-redesign penalty scheme may be sought at the OLT. However, they must not be arbitrated by One Call.



Working Towards Change: Ontario One Call Operations Committee

By Nectar Tampacopoulos, Manager, Water and Wastewater Business Support, Peel Region

Late utility locates have been a chronic issue in Ontario. As Chair of the Ontario One Call Operations Committee, I wanted to communicate how the Committee has been working towards meaningful systemic improvements and towards alleviating difficulties for the infrastructure and construction industries.

I joined the Ontario One Call Operations Committee in 2018 and became Committee Chair in March of 2022. I work with committee members that represent a cross-section of the construction,

utility and locate service providers throughout Ontario.

In late 2021, a subcommittee was formed, the Locate Solutions Working Group (LSWG) which was tasked with providing input on sustainable solutions endorsed by the Ontario One Call Operations Committee and the Board to improve locate system processes to meet industry needs.

The responsibility of the LSWG was to:

- Develop an Overview of Current Situation and the issues to be solved.

- Assessing preliminary solutions to deliver timely locates to major projects, excavators and homeowners.
- Recommending improvements, alternatives, and preliminary solutions.
- Identifying targeted legislative, by-law and policy changes to improve locate processes.

On April 14th, 2022, Bill 93, The Getting Ontario Connected Act received Royal Assent and passed into law, and significantly changed the Ontario Underground Infrastructure Notification Systems Act, 2012.

2022 Ontario One Call Operations Committee

Officers

Chair Nectar	Tampacopoulos Peel Region
Secretary Katie Gosman	Ontario One Call

Members

Municipal	Eric Boere	Halton Region
Electrical	Nick DeStefano	Alectra Utilities
Telecom/Cable	Chris Faith	Bell Canada
Telecom/Cable	Reza Habiboliahi	Rogers Communications
Gas/Oil/Pipeline	Terry Hall	TransNorthern Pipelines
Gas/Oil/Pipeline	Michael McGivery	Enbridge Gas Inc.
Excavator	Andrew Kottelenberg	Avertex Utility Solutions Inc.
Excavator	Malcolm Robertson	Ontario Excavac
LSP	Jason Meyer	G-Tel
LSP	Josie Trapani	Promark-Telecon

The impact of legislation led to a formation of another subcommittee, the Dedicated Locator Working Committee:

- ▶ Dereck Oikawa, ON1Call Board of Directors
- ▶ Tony DiPede, ON1Call Board of Directors
- ▶ Gord Reynolds, Infrastructure Ontario
- ▶ Tim Dykas, Enbridge
- ▶ Jason Meyer, G-Tel
- ▶ Josie Trepani, Promark
- ▶ Reza Habibollahi, Rogers
- ▶ Dave Martins, Toronto Hydro
- ▶ Tyler Chapin, Hydro One
- ▶ Andrew Kottelenberg, Avertex
- ▶ Doug Lapp, ORCGA
- ▶ Kevin Vine, Multiview
- ▶ Andrew Budd, AECON
- ▶ Patrick McManus, OSWCA
- ▶ Nectar Tampacopoulos, Region of Peel
- ▶ Ben Hamilton, ON1Call
- ▶ Adam Mordaunt, ON1Call
- ▶ Christine Hollett, ON1Call

The Dedicated Locator Working Committee outlined its development plan and is working on:

- Definition of Dedicated Locator
- Standardized Template for Members to Certify Dedicated Locators
- Format of 90 Day Notice from Project Owners
- Training Certification and QA for Dedicated Locators
- Records and Mapping Sharing
- Understanding Legal Liability
- Access to Ontario One Call Records to Scope Dedicated Locator Projects
- Visibility in Ontario One Call Upcoming Dedicated Locator Tickets



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Bill 93: Two Big Steps Forward

By Eric Boere, Vice-Chair, ORCGA Board of Directors

The **Ontario Underground Infrastructure Notification System Act (OUINSA)** was passed in 2012. Since that time, there have been two limited stakeholder improvements. The first small-step improvement was mandating municipal membership so all locates could be requested through a 'one call' request. The second small-step improvement emerged since 2014, when the majority of municipal locates adopted similar practices as other utilities, with their requests now completed by contract locate service providers.

The One Call system has worked well for smaller digs and homeowners. However, as the proportion of project requests grew over the past decade, it became increasingly challenging for the system and locators to handle these requests effectively. While Ontario One Call technology improvements and minor policy changes mitigated some of the problems, sustainable improvements were not possible without addressing core issues omitted in the 2012 *OUINSA*.

THE SELF-SORTING DECADE

The North American locates model has utility owners incur the cost for locates, with no price charged to excavators. The result is excavators do not value locates for their cost, they calculate their worth internally by tabulating delay costs. *OUINSA* never addressed these competing interests and conflicts between stakeholders demanding services, and those supplying services. Research shows these shared resource pool conflicts can be managed in one of three ways:

1. Stakeholders self-organize on the supply and use of a 'free' service,
2. Government regulates the supply and use of the 'free' service; or,
3. The service is user-pay to automatically balance supply and demand.

With no regulation in place under the *OUINSA*, the default model chosen for Ontario back in 2012 was the chaos of the first option...stakeholder self-organization. Utility owner, locator and excavator behaviour and interests were always much too far apart and disconnected to be self-resolved (especially at a provincial scale). The absence of regulation also meant the Act was nearly unenforceable.

Fortunately, this era is coming to a close and there are two big steps forward currently in development.

THE FIRST BIG STEP: A MORE REGULATED ENVIRONMENT







Excavators and infrastructure owners knew from the start that individual

interests would win out over collective interests, and advocated to adopt the second model of 'Regulation by Authority' (see diagram). The ORCGA successfully appealed to the province for a coordinated approach that would update legislation first, followed by policy, then enforcement.

After some broadband project related changes were made to the *OUINSA* in early 2021, a Locates Solutions Working Group was formed to advise on further legislative improvements later the same year. The outcome of the discussions recommended abandoning the failed 'self-organized' locates service model of the past decade, and update *OUINSA* to regulate a more balanced environment for all stakeholders. On March 11, 2022, an Ontario One Call presentation highlighted these 27 change-drivers under two categories:

- 17 recommendations being addressed through legislation
- 10 recommendations being addressed by Ontario One Call

The Three Locates Service Models

Requestor	Location	1. Self-Organized	2. Regulation by Authority	3. User Pay
Homeowner	Private Property			voluntary*
Excavator	Right-Of-Way		>>>	
Certain Excavator or Dig Project	Right-Of-Way		>>>>>>>>>	
Employer Excavating (O. Reg. 213/91)	Private Property			 

* except for TSSA and ESA utility-specific guidelines

 = before Bill 93  = after Bill 93

The *OUI*NSA was updated on April 14, 2022, through Ontario *Bill 93* then updated to align with the legislation through a June 16, 2022, member vote. Additional provincial regulations are expected to be posted late this summer, with new Ontario One Call policies also in the works.

After the more effective environment is developed, and the industry has adequate transition time, the timely delivery of locates will be more driven by regulation. If the regulation proves

inadequate for some stakeholders, the Act has measures for tribunal claims and more enforcement powers.

THE SECOND BIG STEP: USER PAY

The second major step forward is abandoning the North American model of unvalued no-cost locates for specific designated projects. The updated *OUI*NSA has adopted the dedicated locator model, where the project owner is more directly engaged in securing a single locate

provider and executing agreements to resource and pay for their project locates.

Referring to the diagram, this advancement to the third 'User-pay' model for locates uses a market-based alternative to source locators. It is better aligned with *Construction Regulation O. Reg. 213/91*, removes unnecessary stakeholders, should result in improved compliance, and thereby reduce delays and enforcement efforts.

While not required by *OUI*NSA, excavators hope this model will compel project owners to:

- better integrate locators into their project team,
- risk-assess their projects and complete appropriate design-stage Subsurface Utility Engineering; and,
- ensure improved drawings and documentation are developed earlier on and integrated into project delivery.

ESSENTIAL CONDITIONS TO SPRINT FORWARD

The post-*Bill 93* environment is still in development, with Ontario law moving from a laggard to leader position in North America. Substantial completion of all 27 working group recommendations and transition time are necessary pre-conditions to a new integrated regulatory and compliance model. A new progressive enforcement program needs to be created, with all stakeholders informed then educated. Existing contracts and agreements will need time to adjust and price-in updated requirements and competencies.

Our next steps forward are to put new policy into practice. The initial step is to complete the above essential requirements to first fix the broken system. The second step is compliance.

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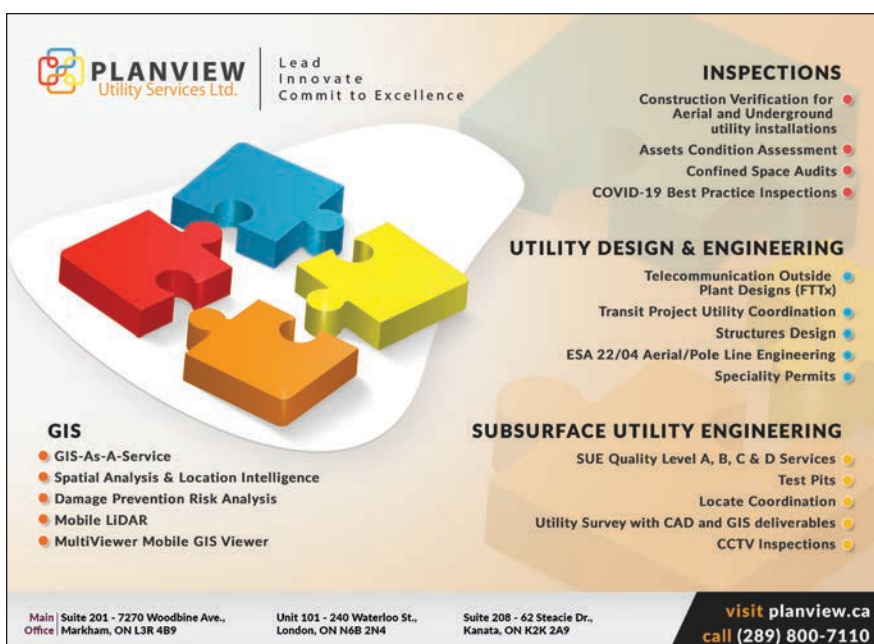


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DPT 100 (5 DAYS)	Barrie	October 24-28, 2022 Mon – Fri Instructor: TBD	TBD	October 7, 2022	TENTATIVE
DPT 100 (5 DAYS)	Ottawa	October 31 – November 4, 2022 Mon – Fri Instructor: TBD	TBD	October 14, 2022	TENTATIVE
DPT 100 (5 DAYS)	Chatham	October 31 – November 4, 2022 Mon – Fri Instructor: TBD	TBD	October 14, 2022	TENTATIVE
DPT 100 (5 DAYS)	GTA	November 7-11, 2022 Mon – Fri Instructor: TBD	TBD	October 21, 2022	TENTATIVE

DPT 200

Course	G.C. AREA	COURSE DATES	COURSE LOCATION	REGISTRATION DEADLINE	Status
DPT 200 (3 Days)	GTA	October 11-13, 2022 Mon – Wed Instructor: TBD	TBD	September 16, 2022	TENTATIVE
DPT 200 (3 DAYS)	London	October 24-26, 2022 Mon – Wed Instructor: TBD	TBD	September 30, 2022	TENTATIVE
DPT 200 (3 DAYS)	Ottawa	November 7-9, 2022 Mon – Wed Instructor: TBD	TBD	October 14, 2022	TENTATIVE

**For more information contact Kim Sheppard at kim@orcga.com
or 905-532-9836 Toll free: 1-866-446-4493**



In 2023, the Ontario Regional Common Ground Alliance is celebrating its 20th anniversary serving the Dig Community in Ontario.

Stay tuned for upcoming anniversary announcements and events!

The Geographic Council meetings are back in-person!



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Tailboard Talks

A Tailboard Talk is an informal safety meeting that highlights safety topics related to the specific job, such as safe work practices and workplace hazards.

The Tailboard Talks were developed from member and ORCGA Board of Directors input, as well as from the DIRT Report and its identification of root causes.

4 Tailboard Talks have been developed, with another 11 in progress.

The Tailboard Talks format states the Excavation Best Practice Statement and its clause number, as well as explaining the risks and factors and their controls. Then there is a portion where the instructor can demonstrate the lesson. On the back of each Tailboard Talk is a sign in sheet and room for comments which can be kept as a permanent record of material covered.

The Tailboard Talks are being developed on behalf of our members and will be accessed through our Member-Only section of the ORCGA website.

Access the ORCGA Tailboard Talks here:
<https://orcga.com/members-only-content/>

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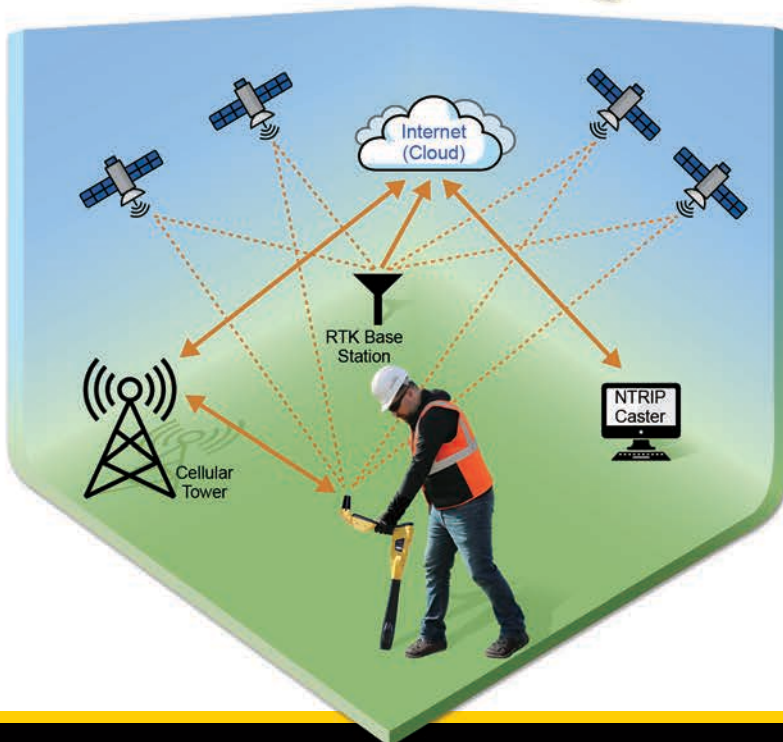
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