

**P.O. BOX 172  
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June 27, 2003

**NOTICE OF APPEAL  
ENVIRONMENT BILL OF RIGHTS S.O. 1993 CHAPTER 28**

Environmental Review Tribunal  
P.O. Box 2382  
2300 Yonge St. Suite 1201  
TORONTO, On. M4P 1E4

Dear Sir or Madam:

On June 20, 2003, 3:30 p.m. a Permit to Take Water from Ministry of the Environment along with a letter with 24 designated special conditions to fulfill before taking of any water was hand delivered to the office of Nichols Gravel Limited. This response to our application came 1 year and 4 months after this Permit had been applied for. This in fact was not issuance of a Permit to Take Water, but a Permit to restrict and not take water subject to the severe and arbitrary unreasonable and costly conditions imposed with this Permit.

At this point there has been no monitoring and no immediate identified impact whatsoever.

The approval of our application for Quarry License came before a lengthy review by the Ontario Municipal Board which concluded with the final Decision Order 1194, July 25, 2001. Prior to the hearing extensive Level 1 & 2 hydrogeological investigations and reports were completed all of which were presented at the hearing and previously received by M.O.E. Hamilton. We note that throughout this public planning process there was no representation written or oral at the O.M.B. hearing by the M.O.E. excepting the letter October 20<sup>th</sup>, 2000 from Barbara Ryter stating that the M.O.E. would prefer the Permit to Take Water be issued prior to the M.N.R. Class A License. It was later confirmed that this was contrary to Aggregate Act legislation and therefore was illegal.

Approval of our application was granted by the O.M.B. subject to 55 conditions some of which addressed the water and hydrogeological concerns expressed by the residents.

On April 1, 2003 1 year and 8 months after the O.M.B. decision order, we received our M.N.R. Class A Extraction License and a letter advising of 23 "Pre Operational" conditions to be met prior to any extraction on the property. Now we have received a Permit to Take Water from M.O.E., with 24 "Special Pre Dewatering" conditions so that in fact the Class A License and the Permit to Take Water are in fact only 2 useless pieces of paper which misrepresents approvals which they are not.

This type of thing is commonly known as fraud.

Please be advised that we consider the Permit to Take Water with 24 Pre Dewatering Conditions to be unlawful and invalid for the following reasons:

1. This is not a "Renewal", it is a "New" permit.
2. The 24 "pre dewatering conditions" do not comply with the conditions as approved by O.M.B. Decision/Order 1194. The M.O.E. has no authority to come in the back door after the fact and change the conditions imposed by the Board Decision Order.
3. The pre conditions prevent any water taking until all conditions are met and approved by M.O.E.. This is a contravention of Aggregate Act Prescribed Conditions which cannot be changed or altered even by the Minister or the O.M.B.

This prevents our company from M.N.R. compliance to Prescribed Conditions for mitigation of dust in respect to Conditions #1 and #2 Sections (3.1) (3.2) (3.3) which are part of O.M.B. Decision Order 1194.

Please further be advised that since there was no reference to "pre conditions" in the final O.M.B. Decision Order 1194 we shall not accept "pre conditions" imposed by the M.O.E. or M.N.R. and we shall comply only with those conditions as imposed by O.M.B. Decision Order 1194.

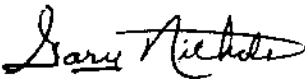
We therefore reject the Permit to Take Water dated June 12, 2003 and the "24 Pre Dewatering Terms and Conditions" imposed in their entirety and request to appeal in total the issuance of Permit to Take Water No. 03-P-2244.

We must also advise that if these outstanding issues which in fact appear to be a conspiracy by staff of both M.N.R. and M.O.E to negatively impact and interfere with our economic and business relations are not reviewed for reconsideration or otherwise resolved, we shall be left with no alternative but to bring these matters before the Superior Court of Justice for review and decision.

Nichols Gravel Limited  
Box 172, Delhi, On. N4B2W9  
PTTW No. 03-P-2244, June 12, 2003  
Director Section 34 P. Odom  
Municipality of Haldimand County

Thank you for your consideration in this matter.

Yours sincerely,



Gary Nichols

Documentation:

1. M.O.E. Letter June 12, 2003,  
Renewal of Permit to Take Water #03-P-2244 and 24 Pre Conditions to  
Dewatering.
2. March 12, 2002 Letter Nichols Gravel Limited and application for Permit to Take  
Water.
3. July 17, 2001 Letter M.O.E. Draft Approval Temporary Permit to Take Water.
4. October 31, 2001 Letter, P. Odum returning Application of Temporary Permit to  
Take Water to close file.
5. June 12, 2003 letter to Minister of Natural Resources from Nichols Gravel  
Limited.

c.c. Minister of the Environment  
c.c. Director Section 34 M.O.E. P. Odum  
c.c. M.P.P. Toby Barrett

P.S. Call received from Jason Ryan 9.13 a.m. July 2, 2003, Subject to discussions June 20, 2003 and a request for phased conditions as the quarry is developed, as stated in the M.N.R. site plan, Mr. Ryan's response for M.O.E.: "No adjustment or change would be made to the Permit or pre conditions as issued June 12, 2003."