

Court file no.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NICHOLS GRAVEL LIMITED

Plaintiff

- and -

**HER MAJESTY THE QUEEN, in the RIGHT OF THE
PROVINCE OF ONTARIO, its servants or agents including
ALEC DENYS and PAUL CUTMORE**

Defendants

NOTICE OF MOTION

THE Plaintiff will bring this motion before the Court on October 20, 2003 at 10:00 a.m., or as soon after that time as the motion can be heard, at 55 Munsee Street, Cayuga, Ontario N0A 1E0.

PROPOSED METHOD OF HEARING: The motion is to be heard

___ in writing subrule 37.12(1) because it is (insert one of on consent, unopposed or made without notice);

___ in writing as an unopposed motion under subrule 37.12(4);

X orally;

THE MOTION IS FOR:

- (a) A Declaration that the defendants have not complied with the order of The Ontario Municipal Board dated April 3, 2001 relating to parts of lots 10 -12, Concession 12, Haldimand County (formerly Walpole Township);
- (b) An Declaration that the licence as issued by the Defendants to the Plaintiff is not in accordance with the orders of The Ontario Municipal Board dated April 3, 2001 and July 25, 2001 (Order 1194);
- (c) to abridge the time for service of this motion, if necessary;
- (d) costs on a solicitor and client basis;
- (e) such further and other relief as This Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE

- (a) As outlined in the Affidavit of Gary Nichols.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (i) As outlined in the Affidavit of Gary Nichols;
- (ii) such further and other material as counsel may advise and This Honourable Court permit.

Date: 29 September 2003

ARRELL, BROWN, OSIER & MURRAY
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