

NICHOLS GRAVEL LIMITED

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May 6, 2003

Ministry of Natural Resources
Aylmer District

ATTENTION: District Manager, Alec Denys

Dear Mr. Denys:

In respect to the March 25, 2003 issuance to Nichols Gravel Limited a Class A Quarry License by the Minister which was hand delivered April 1st, 2003 along with a letter dated March 31st, 2003 which advised that no aggregate was to be removed from the site subject to an inspection conducted on the property March 10th noting 4 infractions as listed and 23 "pre operational" conditions which must be met before permission would be granted to operate the quarry, ship material, or conduct business from this site.

On April 14th, Mr. Cutmore and Mr. Zackar from M.N.R. delivered at our office to me a suspension order for removing aggregate from the property processed in 2002 from the construction of the farm irrigation pond.

I have reviewed the Aggregate Act and found no authority for the actions taken by Inspector Cutmore, There would seem to be misinterpretation of the Conditions of the O.M.B. decision order, as well as conditions of the site plan, and M.N.R. authority for enforcement.

In respect to "pre operational conditions" I find nothing in the O.M.B. decision order which makes reference to compliance with, or a requirement of "pre operational conditions" upon issuance of the license, it simply states quote: "The Board Directs the Minister pursuant to Section 11 (8) of the Aggregate Resources Act, R.S.O. 1990, to issue a Class "A" license for the removal of aggregate from lands composed of Part of Lots 10, 11, and 12, Concession 12, in the City of Nanticoke, subject to the following conditions:

1. The applicant **shall** obtain a long-term Water Taking Permit issued by the Ministry of the Environment.
2. The Applicant **shall** fulfill a set of conditions as set out in Attachment "2". unquote.

To further clarify, for those who have problems understanding the English language, reference such as (shall obtain) #1 and (shall fulfill) #2 makes reference to future tense.

The 55 conditions were agreed to by Nichols Gravel Limited so that the quarry could become operational and be developed under the phasing and conditions of the site plan. These 55 conditions were offered by Nichols Gravel Limited and imposed by the O.M.B. with the consent of Nichols Gravel Limited with this understanding. Upon further careful review of the Aggregate Act, I find no provisions in the act for suspension of a license subject to non compliance of "pre operational conditions", before the quarry in fact becomes operational (March 31, 2003 letter). It should clearly be noted that to date this year there has been no drilling, blasting, crushing or manufacturing of products or sales of aggregate at this site. In that respect we can conclude that at this point this quarry is not operational until the point that sales take place at this property, and revenue is produced for Nichols Gravel Limited, directly from this license and this site.

In recent discussions with our consultant, it was agreed that it would most likely be in the best interests of both M.N.R. and our company to have discussions in an attempt to resolve these issues, before it becomes necessary for our company to seek compensation for lost sales due to the extended unnecessary delay in issuance of the license, and now the further extended damage to our business through what appears to be an illegal suspension of our license.

In that respect I hereby request a meeting to discuss and clarify these issues with yourself Mr. Denys, Mr. Elliot, Mr. Cutmore, our consultant Bernie Janssens, myself and possibly Joe Strachan if he is available.

If we have received no appropriate response to resolve these matters by May 15th, 2003 we will instruct our solicitor to prepare and file court documents to the Ministry of Natural Resources and the Ministry of the Environment and various officials for negligent misrepresentation, conspiracy to harassment and illegal interference with economic and business relations of Nichols Gravel Limited.

Thank you for your consideration in this matter.

Yours sincerely,


Gary Nichols

c.c. Hon. Jerry Ouelette, Minister of Natural Resources
c.c. Ministry of the Attorney General Crown Law Office