

ARRELL, BROWN, OSIER & MURRAY

BARRISTERS AND SOLICITORS
41 CAITHNESS STREET WEST
CALEDONIA, ONTARIO
N3W 2J2

HARRISON ARRELL, Q.C. (1898-1967)
FRANK J. BROWN, B.A., LL.B.
PAUL J. OSIER, B.A., LL.B.
W. PETER MURRAY, LL.B.
ELAINE ROSEWELL B.A., LL.B.

TELEPHONE: (905) 765-5144
Paul J. Osier, Ext. #34
Stacey, Family Assistant, Ext. #29
Allison, Criminal/Civil Assistant, Ext. #31
FAX (905) 765-5144

July 17, 2003

Ministry of the Attorney General
Crown Law office
Civil Law
720 Bay Street, 8th Floor
Toronto, Ontario
M5G 2K1

Dear Sirs:

**RE: Nichols Gravel Ltd.
R.R.#2, Delhi, Ontario
Proceedings against the Crown Act**

I represent Nichols Gravel Ltd. I would ask that you treat this letter as notification to you pursuant to section 9 of the Proceedings against the Crown Act.

My client intends to issue a claim for the following:

- (a) Damages for failure against Her Majesty the Queen in the Right of the Province of Ontario through its Ministry of Natural Resources to issue a Class "A" licence for the removal of aggregate to Nichols Gravel Ltd. in a timely fashion;
- (b) In the alternative, for damages for the issuance of a licence to remove aggregate subject to a list of conditions specified as "specific pre-operational conditions" contrary to a decision of the Ontario Municipal Board issued on or about the 3rd day of April 2001;
- (c) A mandatory injunction requiring the Ministry of Natural Resources to issue a licence in accordance with a decision of the Ontario Municipal Board dated April 3, 2001 and requiring the said Ministry to remove its suspension of the licence that it did issue being licence # 013717;
- (d) A mandatory order requiring the said Ministry to cease and desist approaching sub-contractors of Nichols Gravel Ltd. in an effort to persuade contractors from working for Nichols Gravel Ltd. and for damages for having done so;
- (e) Declaration that Her Majesty the Queen in the Right of Province of Ontario through its Ministry of Natural Resources has engaged in abuse

- of process and for an order for damages as a consequence thereof;
- (f) An order for costs on a solicitor and his own client basis.

Particulars:

I enclose herewith a copy of an excerpt from the Crown Brief in this matter in which an allegation of unlawfully operating a quarry has been made. Also attached is a synopsis of the evidence that it is believed that the prosecution will adduce. The problem is that in 1999 Nichols Gravel Ltd. brought an application before the Ontario Municipal Board in order to determine its authority to obtain a licence for the extraction of gravel pursuant to the Aggregate Resources Act.

I have enclosed herewith a photocopy of the decision of the Ontario Municipal Board which is referred to as item number 11 in the Crown Brief synopsis. It directs that the Ministry issue a licence. I also include the excerpts from tab 13, 14, 15 and 16 from the Crown Brief which are clarifications of the original order.

I also enclose herewith a copy of letter contained at tab 31 of the Crown Brief, being a letter dated October 21, 2002 from a representative of the Ministry of Natural Resources to the Ontario Municipal Board which acknowledges that certain of the conditions appended to the order requiring the issuance of a licence were operational conditions and as such are conditions that would be fulfilled during the operation of the gravel pit to require that these conditions be fulfilled before granting a licence is acknowledged would be impossible.

Finally I enclose herewith a letter contained at tab 41 of the Crown Brief which was dated March 31, 2003 and which finally issued the licence ordered by the Ontario Municipal Board but took it upon itself to change the conditions and add a separate list of 23 conditions which it indicated must be satisfied prior to the operation of the quarry. In other words the Ministry of Natural Resources took it upon itself to change the requirements as ordered by the Ontario Municipal Board and imposed additional conditions that were not ordered as a condition of issuing a licence to extract aggregate. Some of those conditions are impossible to meet and others were already considered and rejected by the Ontario Municipal Board.

The position of my client is that the granting of such a licence in the face of clear Ontario Municipal Board ruling is nothing short of an abuse of process and an obvious attempt to prevent Nichols Gravel Ltd. from operating at this site and a subsequent suspension of the licence by the Ministry of Natural Resources is without foundation.

Would you please investigate and advise at your earliest convenience as to whether or not you are prepared to waive the 60 day period so that our process can be issued forthwith. It is my understanding Alec Denys, the District Manager for the Minister of Natural Resources at 353 Talbot Street West, Alymer, Ontario, telephone number (519) 773-4747 is the person who can provide you with further details. I look forward to hearing from you.

Yours very truly,
ARRELL, BROWN, OSIER & MURRAY

PAUL J. OSIER

PJO/am
Encl.
c.c. Chris Szoke (519) 758-3481



Ministry of Ministère des
Natural Richesses
Resources naturelles

353 Talbot Street West
Aylmer, Ontario
N5H 2S8
Tel. (519) 773-4747

September 22, 2003

Nichols Gravel Limited
P.O. Box 172
Delhi, Ontario.
N4B 2W9

Attn: Gary Nichols

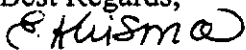
Dear Sir:

Subject: Aggregate Licence #103717
SUSPENSION ORDER

Further to our meeting (Zacher/Elliott/Cutmore/Kuisma/Greenwood/Osier) on August 26, 2003 with Mr. Paul J. Osier, I would like to take this opportunity to remind you of your obligations regarding your suspension order issued April 14, 2003 by Aggregate Resources Inspector Paul Cutmore formerly of this office.

As of this date we have not received any written or verbal confirmation that the items addressed within the suspension order have been completed. Please contact this office immediately as to what items have been completed within the suspension order. The final deadline date for the suspension order is September 30, 2003. Failure to comply with the suspension order by this date shall be deemed an offence under section 57(3) of the Aggregate Resources Act R.S.O. 1990. Failure to comply with this order may also result in further charges or the revocation of your aggregate licence.

Should you have any further questions, please do not hesitate to contact Emmilia Kuisma, Aggregate Resources Inspector at 519-773-4747.

Best Regards,

Emmilia Kuisma
Aggregate Resources Inspector
Aylmer District

c.c. Paul J. Osier



Ontario Court of Justice
45 Munsee St. N., P. O. Box 220
CAYUGA, ON N0A 1E0

Phone: (905) 772-3327
Fax: (905) 772-5810

September 16, 2003

Nichols Gravel
Gary Nichols and Margaret Nichols
Dwayne Nichols
Paul Osler

Re: Offence No. 1160-999-03-0053-01/02/03/04
Charge - Aggregate Resources Act

Please find enclosed herein a Notice of Motion pertaining to the above-noted offence. This motion will be heard in Provincial Offences court on October 3, 2003 at 1:00 p.m.

The prosecution has requested this motion to re-schedule your trial date which is now scheduled for December 11, 2003 because the justice of the peace is now requesting a pre-trial to be heard before the trial commencement.

On October 3rd, the prosecutor will ask the Justice of the Peace to grant this motion and re-schedule your matter. It is necessary for you to attend court to agree to this motion and the new trial date or to state your concern if you wish to dispute this motion.

If you any questions regarding this matter, please do not hesitate to contact this office.

Yours truly,



Stacy Stanley

P.O.A. Administration Clerk

ss
/encl.