

NICHOLS GRAVEL LIMITED

**P.O. BOX 172
DELHI, ON. N4B 2W9**

PHONE: 519-582-3354

FAX: 519-582-2143

September 29, 2003

Ministry of Natural Resources
Aylmer District

ATTENTION: Aggregate Resources Inspector, Emmilia Kuisma

Dear Madam:

This letter in response to your letter of inquiry of September 22, 2003, in respect to a suspension order issued April 14, 2003 to Licence #103717.

We would first clarify that this company does not recognize the Licence #103717 as issued as a valid licence, and contend that it provides no authority in law for enforcement to the assigned property for the following reasons:

1. Contempt of O.M.B. Decision/Order 1194 for excessive delay of 1 year and 8 months to issuance of licence with "pre operating" conditions.
2. Contempt of O.M.B. Decision/Order 1194 as this licence does not comply with the direction of the Decision/Order in respect to the fact that M.N.R. cherry picked 23 conditions out of 55 as accepted by the Board and made them "pre operational" conditions under schedule "A" & "B". There is no reference to schedule A & B in Decision/Order 1194. The O.M.B. reference is to the conditions of Attachment "2".
3. These conditions were proposed to the O.M.B. at the hearing by the lawyer and consultant for Nichols Gravel Limited not as "pre operational" conditions, but as conditions to be phased in with the on going development of the quarry.
4. And finally we find no provisions in the Aggregate Act which allow M.N.R. to impose "pre operating conditions" to a license prior to extraction. Either you are provided the authority to extract under the application for licence, as referred to O.M.B. or it should not have been issued. This licence is a misrepresentation and a fraud.
5. The letter of clarification from the O.M.B. dated October 10, 2002 last paragraph stated quote: "The Aggregate Resources Act subsection 11 (15) provides that a decision or order of the Board cannot be reviewed under the Boards powers section 43 of the Ontario Municipal Board Act or section 21.2 of the Statutory Powers Procedures Act." unquote.

This would confirm that when the M.N.R. cherry picked 23 conditions out of the 55 conditions as ordered by the Board, and made them into "pre operational conditions" of schedule "A & B", and that the M.N.R. in fact reviewed and altered the conditions as approved by the Board in contravention of Provincial Statutes.

Therefore our position is that the licence dated March 25, 2003 is invalid and without legislated authority in law, and it then follows that the suspension order and the interference by M.N.R. enforcement officers with contractors who failed to fulfil their contracts with Nichols Gravel Limited was also illegal and without lawful authority.

However, now that the M.N.R. has requested for the first time as to what conditions have been fulfilled, we shall confirm this information as follows: Schedule A.

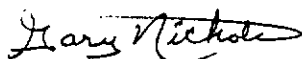
6. A Spills Contingency Program completed on file.
7. Not required. No requirement to pump water for extraction.
8. Not required. No processing equipment on site. No. Min. Labour requirement for owner owned equipment.
9. Permit to take Water received June 20, 2003. Under appeal.
10. In compliance, records on file.
12. In compliance, records on file.
14. In compliance, reports on file 2002, 2003.
15. In compliance, report on file.
17. In compliance, records on file.
20. In compliance, records on file.
25. In compliance, records on file.
27. Not required. No pumping to dewater for extraction. Nothing to monitor.
29. In compliance, no records on file.
37. In compliance.
38. In compliance.
45. Not required. No pumping to dewater for extraction. Nothing to monitor.
49. Quite impossible to construct an internal water collection system internal to the quarry without first having extraction to develop and open up a quarry? DHA?
50. In compliance.
51. The same as conditions 49. **NO** extraction, **NO** quarry, **NO** internal water collection system.
52. Not required. **NO** dewatering for extraction.
53. Not required until it becomes necessary to dewater for extraction. The land possesses user right to the Harrop Drain for surface water discharge under drainage assessment on the land.
55. Berms are in construction stages. Only the berm next to Nick O'Brien **completed** and seeded with Crown Vetch.

Schedule "B"

1. Perimeter fencing completed along Road 9.
2. Berms are under construction and are in continuous construction until completed.
3. In compliance.
4. Negligent misrepresentation. Fraud. Berms partly completed. See site plan.

Supporting documentation upon request, subject to lawyer authorization.

Yours Sincerely,



Gary Nichols.



Ministry of Natural Resources
Ministère des Richesses naturelles

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

October 1, 2003

"Registered Mail"

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

Attention: Gary Nichols

Dear Sir:

**Subject: Nichols Gravel Limited
Licence No. 103717
Notice of Suspension**

A letter addressing the current status of your licence No. 103717 was submitted by Paul J. Osier on September 19, 2003. After a formal review of this correspondence, our office has subsequently revised the Notice of Suspension issued on April 14, 2003 by Paul Cutmore. The attached revised Notice of Suspension, dated as of October 1, 2003, now supercedes the former Notice of Suspension. This order outlines the specific outstanding conditions that must be met in order for your licence to be re-instated.

Once the licence has been formerly re-instated, you remain responsible for meeting the remainder of the 56 conditions associated with this licence. Failure to comply with these conditions is a violation of Section 15 of the Aggregate Resources Act. Section 15 of the Aggregate Resources Act R.S.O. 1990 states that, "Every licensee shall operate the licensee's pit or quarry in accordance with the Act, the regulations, the site plan and the conditions of the licence".

Please note that in accordance with the revised Notice of Suspension dated October 1, 2003, Licence No. 103717 is currently suspended. Please be advised that your licence will remain suspended until all of the remedial action work as outlined on the Notice of Suspension has been completed. In the interim, your licence remains suspended and no production, processing, or shipping of material can occur within this licence site.

Failure to comply with this revised Notice of Suspension by December 15, 2003, shall be deemed an offense under section 57(3) of the Aggregate Resources Act R.S.O. 1990. Failure to comply with this order may result in further charges or the revocation of your aggregate licence.

We look forward to hearing from you in the near future.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Kuisma".

Emilia Kuisma
Aggregate Resources Inspector
Aylmer District

Attach.
ekuisma/2003

c.c. Paul J. Osier.



Ministry of Ministère des
Natural Richesses
Resources naturelles

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

"Registered Mail"

October 1, 2003

Arrel, Brown, Osier and Murray
Barristers and Solicitors
41 Caithness Street West
Caledonia, Ontario
N3W 2J2

Attention: Paul J. Osier

Dear Sir:

**Subject: Nichols Gravel Limited
Licence No. 103717
Notice of Suspension**

Thank-you for your letter dated September 19, 2003 in regards to your client Gary Nichols. After a formal review of your correspondence, this office has subsequently revised the Notice of Suspension issued on April 14, 2003 by Paul Cutmore. The attached revised Notice of Suspension, dated as of October 1, 2003, now supercedes the former Notice of Suspension. This order outlines the specific outstanding conditions that must be met by your client.

Once the licence has been formerly re-instated, your client remains responsible for meeting the remainder of the 56 conditions associated with his licence. Failure to comply with these conditions is a violation of Section 15 of the Aggregate Resources Act. Section 15 of the Aggregate Resources Act R.S.O. 1990 states that, "Every licensee shall operate the licensee's pit or quarry in accordance with the Act, the regulations, the site plan and the conditions of the licence".

Failure to comply with this revised Notice of Suspension by December 15, 2003, shall be deemed an offense under section 57(3) of the Aggregate Resources Act R.S.O. 1990. Failure to comply with this order may result in further charges or the revocation of this aggregate licence.

We look forward to hearing from you in the near future.

Sincerely,


Dan Elliott
Area Manager
Aylmer District

Attch.
ekuisma/2003

c.c. Gary Nichols- Nichols Gravel Limited.

**** REVISED ****



Ministry of Natural Resources / Ministère des Richesses naturelles

NOTICE OF SUSPENSION

Under the authority of Section 22(1), or 32(1) or 45(1) Aggregate Resources Act (ARA) R.S.O. 1990, Chapter A. 8, as amended

AVIS DE SUSPENSION DE PERMIS

Aux termes de l'article 22 (par.), 32 (par. 1) ou 45 (par. 1) de la Loi sur les ressources en agrégats (LRA), LRO 1990, Chap. A.8 en tenant compte des modifications

By the authority delegated to me by the Minister of Natural Resources, I
En vertu des pouvoirs qui m'ont été conférés par le ministre des Richesses naturelles, je

Emmilia Kuisma

Guelph/Aylmer District

Inspector / Inspecteur

Administrative District / District administratif

do hereby suspend licence / permit number **103717**
suspend, par la présente, le permis ou la licence numéro

issued to **Nichols Gravel Limited**
délicivré à

for the following reasons:
et ce, pour les motifs suivants:

****THIS SUSPENSION ORDER SUPERCEDES THE FORMER SUSPENSION ORDER ISSUED ON APRIL 14, 2003 BY AGGREGATE INSPECTOR PAUL G. CUTMORE****

On April 1, 2003, a Class A Aggregate Licence (with fifty-six conditions) for the property located at Pt. Lots 10-12, Concession 12, Haldimand County (Walpole Township) was hand delivered to the main office of Nichols Gravel Limited in Delhi, Ontario. In the covering letter (attached to the Licence) instructions were included specifying that twenty-three conditions of the Licence had to be fulfilled prior to the operation of the quarry or removal of material from the licensed property. Following the issuance of the licence, material was removed from the licensed property.

Due to the removal of quarried material from the licensed property, without fulfilling the required licence conditions, Section 15 of the Aggregate Resources Act has been violated.

Section 15 of the Aggregate Resources Act states that, 'Every licensee shall operate the licensee's pit or quarry in accordance with the Act, the regulations, the site plan and the conditions of the licence'.

AND FURTHER TAKE NOTICE that this suspension is effective from the time of service of this notice upon you and shall continue in effect until you take or desist from taking, as the case may be, the following action(s) to my satisfaction:
EN OUTRE, VEUILLEZ ÊTRE AVISÉ que la présente suspension entre en vigueur dès que l'avis vous est signifié et ne sera pas levée tant et aussi longtemps que vous n'aurez pas pris ou n'aurez pas renoncé à prendre les mesures suivantes:

Complete the following by December 15, 2003:

- ✓ 1. Copies of the Spills Contingency Program, as required by Condition 5 of your licence, must be provided to this office by December 15, 2003.
- ✓ 2. As required by Condition 12 of your licence, all blast monitoring reports must be provided to this office by December 15, 2003.
- ✓ 3. As required by Condition 14 of your licence, all residences within 300 metres of the edge of the extraction area shall be thoroughly inspected by the licensee's consultant prior to the start of quarry blasting operations. Provide this office with copies/records of these inspections by December 15, 2003.


4. As required by Condition 15 of your licence, the first six quarry blasts shall be monitored for both vibration and over pressure (noise) at a minimum of four locations for each blast in order to accumulate site-specific data quickly. Provide this office with copies/records of the first six quarry blasts by December 15, 2003.
5. As required by Condition 17 of your licence, careful blast records shall be maintained. Provide this office with all blast records, post issuance of your aggregate licence 103717, by December 15, 2003.
6. As required by Condition 20 of your licence, the monitoring results of the first six quarry blasts monitored at a minimum of 4 locations in accordance with the recommendations of the Licensee's consultant, along with the consultant's analysis and recommendations, shall be submitted to the local offices of MNR and MOE. Provide this office with copies of the monitoring results and documentation that these results have been forwarded to the Ministry of the Environment by December 15, 2003.
7. As required by Condition 25 of your licence, residences within 300 metres of the quarry site, which will have been thoroughly inspected in accordance with the recommendations of the Licensee's consultant, shall be re-examined following the initial six blasting operations. Copies of the original examinations records and of the re-examination results shall be submitted to the property owner concerned. Provide this office with written confirmation/records that this condition has been met, by December 15, 2003.
8. As required by Condition 27 of your licence, the licensee will provide for the installation of monitoring well nests with upgradient, downgradient, and cross-gradient wells at the top of the Bois Blanc Formation, to the base of the Bois Blanc Formation and into the Bertie Formation at the property boundaries. Documentation/records that these wells have been installed must be supplied to this office, by December 15, 2003.
9. As required by Condition 29 of your licence, upon issuance of the quarry licence, the licensee's consultant will commence, with the permission of the property owner, monitoring of all water wells within 120 m of the quarry property boundary, and the wells presently owned by D.Wilson, D.Greenfield, and M.Roulson. Provide this office with records/documentation that monitoring of all water wells has begun, by December 15, 2003.
10. As required by Condition 49 of your licence, the licensee will ensure that the internal water collection system within the quarry will incorporate component storage for groundwater and surface runoff. Construct the internal water collection system by December 15, 2003.
11. As required by Condition 50 of your licence, external berming will be constructed around the quarry to prevent any surface water spillage into the quarry. Complete the berming requirement by December 15, 2003.
12. As required by Condition 51 of your licence, the licensee will ensure that water polishing measures will be incorporated into the internal collection system. Incorporate the water polishing measures into the internal collection system by December 15, 2003.
13. As required by Condition 52 of your licence, the licensee will ensure that the stormwater holding system be designed such that sufficient capacity is provided to hold a 100 year storm with zero discharge. Construct the stormwater holding system by December 15, 2003.
14. As required by Condition 53 of your licence, the licensee will obtain any required approvals, pursuant to the provision of the Drainage Act, for discharge of water to the Harrop Drain. Provide this office with copies of the required approvals by December 15, 2003.
15. As required by Condition 55 of your licence, all berms shall be graded smooth to a stable (2:1) slope and seeded to prevent erosion and to reduce dust. All berms must be graded, sloped and seeded by December 15, 2003.
16. Perimeter fencing is required around Phase 1a, 1b and 2, as detailed on your site plan. Erect all required fencing by December 15, 2003.

- 17. The interim berms surrounding the quarry area require sloping and seeding, in order to reduce dust in the local area. Interim berm height should be higher as per site plan details (minimum 6m above bedrock floor). Erect, slope and seed berms surrounding the quarry area, as per your approved site plans, by December 15, 2003.
- 18. The fuel tank existing in the quarry areas should be relocated near the scale house as specified in the site plan. Move and locate the fuel tank, as per your approved site plans, by December 15, 2003.
- 19. The roadway entrance and weigh scales should be moved eastward of the existing location, as an acoustic berm is required along the boundary of the adjacent farm residence. Move the roadway entrance and weigh scales to the location delineated on your approved site plans by December 15, 2003.

AND FURTHER TAKE NOTICE that all activities associated with the pit or quarry authorized by the above licence (or permit) are prohibited. Continuing any activities during the suspension is a contravention of the Aggregate Resources Act and is punishable upon conviction by a fine of not less than \$500.00 and not more than \$30,000.00 for each day on which the offence continues (section 58, ARA) and could result in cancellation of your licence (or permit) (s. 22(4) or s. 32(5) or s. 45(5).

EN OUTRE, VEUILLEZ ÊTRE AVISÉ que toute activité liée à l'exploitation du puits ou de la carrière visé par le permis ou la licence mentionné ci-dessus est interdite. Le fait de poursuivre toute activité pendant la période de suspension constitue une infraction à la Loi sur les ressources en agrégats et est pas passible, sur inculpation, d'une amende minimale de 500 \$ et maximale de 30 000 \$ pour chaque journée pendant laquelle se poursuit l'infraction (article 58, LRA), et qu'il peut entraîner la révocation du permis ou de la licence aux termes de l'article 22 (paragraphe 4), 32(paragraphe 5) ou 45 (paragraphe 5).

Dated at Aylmer this 1st day of October, year 2003
 Fait à en ce jour du mois de année


 Inspector / Inspecteur

Aylmer.
 Administrative District / District administratif



Ministry of Natural Resources
Ministère des Richesses naturelles

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

October 2, 2003

"Registered Mail"

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

Attention: Gary Nichols

Dear Sir:

**Subject: Nichols Gravel Limited
Licence No. 103717**

Thank-you for your letter received on September 30, 2003. In response to this letter, please refer to my correspondence from October 1, 2003.

Your aggregate Licence No.103717 remains under suspension until the items addressed on the revised Notice of Suspension, sent to you via registered mail on October 1, 2003, have been addressed.

As stated within your correspondence, a portion of the conditions as outlined by the Notice of Suspension have been fulfilled. Please provide supporting documentation to this office, showing that these items have been completed. This documentation should be forwarded to this office as soon as possible and no later than December 15, 2003, as outlined on your Notice of Suspension.

If you would like to have an on-site meeting to discuss these matters further, please feel free to contact myself at this office to arrange a time that is convenient for you.

Best Regards,

A handwritten signature in cursive script that reads "Emilia Kuisma".

Emilia Kuisma
Aggregate Resources Inspector
Aylmer District

ekuisma/2003

c.c. Paul J. Osier.