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In summary we find the following M.N.R. enforcement contraventions without legislative authority by staff of Aylmer District office and in particular Inspector Paul G. Cutmore.

Contravention #1

1. M.N.R. prescribed conditions of O.M.B. Decision/Order 1194.
Prescribed conditions are conditions that pertain to the individual category and **cannot** be varied or rescinded by either the Minister or the Ontario Municipal Board. Ref: Provincial Standard version 1.0. #1

Inspector Cutmore changed prescribed conditions as approved by the O.M.B. to "Specific Pre Operational Conditions" on the Class A licence as issued April 1, 2003 without legislative authority to alter M.N.R. prescribed conditions, or to review and alter or change the conditions of approval of O.M.B. Decision/Order 1194. Ref. October 10, 2002 O.M.B. letter Joanne Hayes, 3rd paragraph provincial statutes.

This letter was in response to a letter dated September 20, 2002 from Nichols Gravel Limited which clarified that this company would not take part in any further O.M.B. hearings. This was after Inspector Cutmore and Lumb had issued a shutdown order for operation of an illegal quarry September 5, 2002. #2

Mr. Cutmore had then immediately thereafter requested to the O.M.B. to reopen the hearing to discuss water issues that had been previously reviewed at the O.M.B. hearing without any input from the M.N.R. or M.O.E. #3

The October 10th O.M.B. letter clearly stated that Provincial Statutes prevented any further review of the matter by the O.M.B. #4

This letter was also copied to Mr. Cutmore, and obviously completely disregarded in respect to his later productions and directions. REF: Mr. Cutmore letter of November 13, 2002. #5

M.N.R. Class A Licence issued April 1, 2003 subject to conditions of schedule A & B **not** identified or directed in final O.M.B. Decision/Order 1194. #6

O.M.B. Decision/Order 1194 #7

Contravention #2

2. Amendment of site plans Aggregate Act 16 Subsection (5):

If the Minister proposes to require the amendment of a site plan or proposes to approve the amendment of a site plan, he or she shall forthwith serve notice of the proposal on the licensee.

Decision/Order 1194 O.M.B. conditions of approval #27, 29, 45, 50, 51, 52, and 53 were not described in O.M.B. Decision/Order 1194 or on the M.N.R. site plans as "specific pre operating conditions". However, these conditions were changed and imposed upon the Class A Licence under schedule A & B without amending the site plans. This was a contravention of A.R.A. Legislation 16 Subsection 8: which provides: A licensee who is served with notice under subsection (5) of a proposal to require amendment of a site plan is entitled to a hearing by the Board if the Licensee within 30 day after being served, serves the Minister with a notice that a hearing is required. 1996, c30s. 13.

Nichols Gravel Limited was not notified that conditions of the site plan as approved and accepted by M.N.R. February 14, 2003 would be changed to "specific pre operational conditions" of the invalid Class A Licence as issued April 1, 2003 and was therefore denied the right to Appeal under A.R.A. Legislation 16 Subsection 8. See A.R.A. Statutes. #8

It should further be noted that inquiries by consultant Bernie Janssen regarding a berm and access road location confirmed in the fax letter of February 5, 2003 were not identified as a concern by Inspector Cutmore prior to acceptance of the site plans by M.N.R. February 14, 2003 the letter stated: **No revision to site plans were needed by M.N.R. See letter February 5, 2003. #9.**

However, upon issuance of the licence April 1, 2003 the location of the berm, access road and scale was identified under schedule B as site plan infraction #4 with a direction from Mr. Cutmore to move the access road and scale farther to the east, in order to accommodate a berm not required at this time according to provisions on the site plan. **REF: Site plan infractions. #10.**

In respect to the previous discussions February 3, 2003 with Nichols consultant Bernie Janssen, and the fact that the site plan clearly indicates that this berm is not required at this time, we confirm that Mr. Cutmore for whatever reason, knowingly made this illegal direction based on a false misrepresentation of fact. This direction also represented a change of conditions as indicated on the site plan without amendment. **See consultant fax letter April 22, 2003. #11**

See site plan conditions. Initial Excavation #12.

Contravention #3 Compliance

The Aggregate Act as amended 1997 made compliance to the Aggregate Act Operator self regulatory under A.R.A. legislation.

M.N.R. Charge #1

The charges filed by M.N.R. April 14, 2003 under Section 7 (1) 57 (1) and 57 (4) are invalid.

There was no operating quarry.

There was construction and development of a irrigation pond which served a dual purpose in anticipation to the delayed issuance of the M.N.R. Class A Quarry licence 1 year after O.M.B. directed M.N.R. to issue the licence. The intent to proceed in this respect was clearly identified in the letter of March 6, 2002 to M.P.P. Toby Barrett. This letter was copied to the Minister of Natural Resources, M.O.E. Water Resources director Paul Odom, M.N.R Inspector Joe Strachan and O.M.B. case worker Andy Dawang. There was no response from Mr. Barrett or any of those copied of the letter.

The letter from land renter Mr. Sommers of August 30th, 2001, and the letter of response from Gary Nichols October 5, 2001 was included with this letter #13

The aggregate from the construction of the irrigation pond provided stone for construction of the access road, back fill for motor truck scale ramps and to level stockpile areas.

At this time, there was no truck scale, no telephone, and no sign at the entrance, and provisions of O.M.B approval did not apply until issuance of the licence. Again there was no operating quarry.

If this was in fact an operating quarry, why did M.N.R. not file these charges September 5, 2002 rather than wait until after they had suspended the licence April 14, 2003. 14 days after the licence was issued.

M.N.R. Charge #2: October 6, 2003 Subsection 7 (1) 57 (1).

Invalid Charge: The licence as issued April 1, 2003 provided no authority to operate, until 23 Specific Pre Operating Conditions had been completed. This licence represents an extortion to fraud, and is and remains invalid as it permitted and authorized nothing but expenditures of hundreds of thousands of dollars without providing the authority to operate. To ensure that this quarry did not operate, M.N.R. officials threatened and intimidated subcontractors of Nichols Gravel Limited with prosecution if they entered or performed work on the quarry property, and as a result these contractors declined to fulfill their contract agreement so that there could be no operating quarry.

These Gestapo like intimidations ensured that there was in fact no operating quarry by Nichols Gravel Limited in the year 2003 under licence # 103717.

It would be of interest to know, was the March 2003 M.N.R. investigation at the same time as the Class A Licence was in process for issuance, and as well the witness

statement received by M.N.R. from Marlene Phibbs of the rural community coalition 6 hours prior to Nichols Gravel Limited receiving the Class A Licence April 1, 2003, was this all just coincidence or was it part of an elaborate conspired plan to delay and prevent this quarry from becoming operational? **See Enforcement Officer Jim Greenwood Disclosure. #14**

Contravention #4

Suspension Order April 14, 2003.

Invalid Suspension Order: Under Section 15 A.R.A. . The licence that was issued did **not** allow the operation of a pit or quarry until 23 Specific Pre operating Conditions under Schedule A of the licence had been completed.

Between issuance of the licence April 1 and inclusive to the suspension dated April 14 there was **no** stripping of overburden, **no** drilling and blasting, **no** crushing and screening and stockpiling, no aggregate sold at that location, no daily loading service or anyone employed on site.

The Aggregate Act provides **only** for licence suspension under Section 15 (1) Compliance Report Section 15 6 (a) and (b). Nichols Gravel Limited was **not** allowed to operate and as a result was **not** able to provide the Annual Compliance Report.

There was in fact **no** operating quarry, therefore the suspension order was another conspired fraud, without legislative authority for enforcement.

See April 7, 2004 M.N.R. letter notice of intention to revoke under Aggregate Resources Act #15

See May 5, 2004 letter Nichols Gravel Limited letter to Minister request for O.M.B hearing A.R.A. Section 20 Subsection 6. #16