



Nichols Gravel Limited
P.O. Box 172 - Delhi, Ontario N4B 2W9
Phone (519) 582-3354 Fax (519) 582-2143

ATTENTION: BRIAN MESSERSCHMIDT, M.N.R. ARA MANAGER.

**Company Policy, Effective this date March 19 2007
Occupational Health And Safety Act.
"Owner Due Diligence"**

DIRECTIVE: ALL PERSONS WHO ENTER COMPANY PITS OR QUARRIES SHALL REPORT DIRECTLY TO THE SCALE-OFFICE TO IDENTIFY THEIR BUSINESS AND SHALL BE ESCORTED BY QUALIFIED COMPANY PERSONAL IF REQUIRED. THIS INCLUDES THE POLICE AND ALL GOVERNMENT INSPECTORS OF EVERY MINISTRY, MONDAY TO FRIDAY DURING BUSINESS HOURS. ANYONE WHO DISREGARDS THIS DIRECTIVE AND THE OCCUPATIONAL HEALTH AND SAFETY ACT SHALL BE CHARGED WITH TRESPASSING, AND THE COMPANY ACCEPTS NO LIABILITY FOR INJURIES SUSTAINED.

Gary Nichols Pres.



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December 3, 2008

Ministry of Labour Ontario
Occupational Health and Safety Inspector
217 York ST. 5th Floor
London, On. N6A 5P9

ATTENTION: Inspector Rick Schulist

This is a request to investigate a serious incident of provocation of liability to Nichols Gravel Limited due to the trespass and negligent misconduct in respect to regulations of the Ministry of Labour Occupational Health and Safety Act and contravention of legislation of the Aggregate Resources Act S 4 (2) (A) and S 65.

When M.N.R. Gary Zacher and Gary Caron entered property under lease to Aboriginal Imports and owned by Nichols Gravel Limited at 8 pm September 08, 2008 to conduct an inspection stumbling around in the dark taking pictures of a drilling rig owned by Go Drilling which was parked adjacent to a 23' drop off to the Quarry floor below.

By his own affidavit Mr. Zacher states that he was back to the Quarry again September 9, 2008, 8 pm. for a repeat performance to stupidity for another inspection in the dark in regards to a contract between Go Drilling and Aboriginal Imports.

Where does M.N.R. find these nuthatches that are supposedly employed to protect the Public Interest?

Mr. Zacher has been enforcing fraud on Nichols Gravel Limited now for almost 6 years and appears to be losing it because it is not working. Too Bad.

Now that Mr. Monture is aware, should Mr. Zacher of M.N.R. continue to interfere with the business of Aboriginal Imports he will no doubt find himself dealing not with Nichols Gravel Limited, but directly with Mr. Monture and the Mohawks of Six Nations.

This stupid negligent performance by M.N.R. personnel served to place Nichols Gravel Limited in an extremely dangerous and serious liability position had an injury or fatality occurred.

We request that the Ministry of Labour immediately investigate this matter and charge the offending parties under both Ministry of Labour O.H.S.A. Regulations and A.R.A. S 4 (2)(A) and S 65 due to negligent disregard for safety provisions of the Occupational Health and Safety Act Legislation that they are required to comply with.

There is no valid reason why these officers had to sneak around in the dark to make this inspection at night. This was **not** a reasonable time, as there was no reason that this inspection could not have been conducted in daylight working hours the following day.

See: Affidavit Gary Caron with pictures filed with the Court to a contempt charge to Nichols Gravel and Gary Nichols dated November 21, 2008, signed by Dennis Brown and Connie Vernon.

Yours sincerely,



Gary Nichols

- c.c. Minister of Natural Resources Ontario
- c.c. Minister of the Attorney General Ontario
- c.c. Minister of Labour Ontario
- c.c. Federal Minister of Aboriginal Affairs
- c.c. Dennis Brown Crown Law Office
- c.c. M.P.P. Randy Hillier



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January 8, 2009

Ministry of Labour Ontario
Occupational Health and Safety Inspector
217 York St., 5th Floor
LONDON, On. N6A 5P9

ATTENTION: Inspector Rick Schulist

Dear Sir:

By letter of December 3, 2008 I made a request to investigate the actions of M.N.R. Officials Gary Zacher and Gary Caron in respect to unlawful activities of both the Aggregate Resources Act and the Occupational Health and Safety Act concerning a night inspection at Nichols Quarry property at about 8 pm on September 8th and 9th 2008.

These actions also provoked an illegal interference to business relations of the Quarry operator Aboriginal Imports, when the drilling contractor was contacted by M.N.R. and convinced that he should break his contract, and remove the drill from this property.

Tracking records (copy enclosed) from Canada Post indicate that this letter was successfully delivered to your office and signed for AM December 4, 2008.

I am also enclosing a copy of our Company Policy regarding the O.H.S.A. sent out as clarification, after the fiasco of obstruct charges and court appearances for Gary and Dwayne Nichols to the incident of October 5, 2004 when M.N.R. Inspectors intruded into our active processing and work area without any consultation or permission. This document was faxed to the M.N.R. Aylmer District Office June 26, 2007 so that M.N.R. was well aware of our policy prior to this most recent negligent misconduct.

Please advise of the status of this investigation at this time.

Yours sincerely

Gary Nichols

c.c. Minister of Labour
c.c. M.P.P. Toby Barrett
c.c. M.P.P. Randy Hillier



NEWS

Ministry of Natural Resources

\$49,000 FINE FOR OPERATING WITHOUT A LICENCE

NEWS

January 21, 2009

A Delhi aggregate company and its president have been fined a total of \$49,000 for a breach of a court order prohibiting the company from operating a quarry without a licence.

The court heard that the Ministry of Natural Resources investigated an alleged quarry operation and determined that Gary Nichols, president of Nichols Gravel Limited, had leased his Hagersville quarry operation to a Haldimand County company.

The court ruled that Nichols Gravel Limited and Gary Nichols were in breach of a court order issued November 7, 2006, and were in contempt of court. Nichols Gravel Limited and Gary Nichols were each fined \$20,000 and were also ordered to pay court costs totalling \$9,000.

The case was heard by Judge Borkovich in the Superior Court of Justice, Cayuga, Ontario, on January 15, 2009.

To report a natural resource violation, call 1-877-TIPS-MNR (847-7667) toll-free any time or contact your ministry office during regular business hours. You can also call Crime Stoppers anonymously at 1-800-222-TIPS (8477).

Gary Zacher, Aylmer District, 519-773-4734
Emilia Kuisma, Aylmer District, 519-773-4790

ontario.ca/news

Nichols fined \$49,000 for Hagersville quarry operation

by Bill Jackson

Nichols Gravel Limited and its owner Gary Nichols have been fined \$20,000 each and ordered to pay court costs of \$9,000 for breaching a court injunction that prohibits the company from operating a Hagersville quarry without a licence.

Last July, Nichols held a press conference at the site, located at 2746 Con. 12, where he announced that the quarry had been leased to a Six Nations company called Aboriginal Imports.

Operations commenced soon thereafter and blasting and crushing activity has been undertaken during the past six months to extract and produce high quality aggregate.

Nichols contends that the Ministry of Natural Resources (MNR) has used "illegal, unlegislated enforcement" to make him comply with pre-operation conditions of a licence that were not identified in an Ontario Municipal Board order, thereby freezing his assets and putting people out of work. In a press release issued last year, he stated that such enforcement efforts had produced 38 separate counts of charges to the company and its officers and that the lease to Aboriginal Imports had "been brought about due to the harassment and malicious prosecution..."

MNR Enforcement Officer, Gary Zacher argues that Nichols did not follow pre-operating conditions in his licence and that there are responsibilities which must be followed to operate a quarry.

Zacher said the MNR had to prove to the court that ongoing operations without proper measures in place posed a threat to public safety. Operation of the quarry that could cause harm to the water table has been the chief concern historically, especially for local residents and farmers in the vicinity.

A Notice of Revocation of Licence issued in 2004 and signed by the former Minister of Natural Resources, David Ramsay outlines 10 reasons including the failure to provide water monitoring wells and water collection systems.

Zacher said there is an ongoing investigation into the quarry operations, the involvement of Aboriginal Imports and the company's owner, Bill Monture.

According to Zacher, the supposed lease agreement between Nichols Gravel Limited and Aboriginal Imports has not been made available to the MNR, or the courts.

"Gary (Nichols) said the man is in agreement with him, but we have no proof."

Monture has been up front about his intentions and perceived rights, however.

In a press release issued last summer, he clearly stated that "Aboriginal Imports shall operate the Nichols Quarry..."

"Our position is that a permit or license is not required at this time from any level of Canadian government to operate this quarry

until such time as all Six Nations Land Claims have been resolved and settled."

MNR officers were allegedly at the quarry last September, "in the dark," to investigate operations. In another press release, Nichols accused them of negligent misconduct in respect to the Occupational Health and Safety Act and said that if Zacher continued to interfere with the business of Aboriginal Imports "he will no doubt find himself dealing not with Nichols Gravel limited, but directly with Mr. Monture and the Mohawks of the Six Nations."

The court injunction against quarry operations that was issued in November of 2006, and given to Monture last summer, restrains the defendant, Nichols Gravel Limited, "or their substitutes or anyone acting under their instructions, anyone aiding or assisting the Defendants or anyone having knowledge of this order..." from operating the quarry.

In his recent decision, a Superior Court Judge ruled that Nichols knew what the property was going to be used for at the time he entered into a lease with Aboriginal Imports, Zacher emphasized.

Last Friday, Nichols told The Regional News that he was not prepared to make a statement regarding the court's recent decision to impose \$49,000 in fines. The decision will be appealed and a press release will be issued at a later date, he said.

Court File No: 192/2006

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

BETWEEN:

NICHOLS GRAVEL LIMITED

Applicant

And

HER MAJESTY THE QUEEN in the RIGHT OF THE
PROVINCE OF ONTARIO, as represented by THE
MINISTRY OF THE ATTORNEY GENERAL

Respondent

AFFIDAVIT

I, Gary Nichols, of the Town of Delhi, in the County of Norfolk, president of Nichols Gravel Limited, MAKE OATH AND SAY AS FOLLOWS:

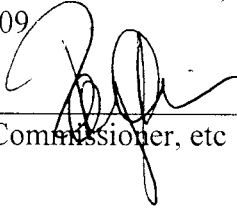
1. Nichols Gravel Limited applied for and received a decision of the Ontario Municipal Board, hereinafter referred to as OMB, being Ontario Municipal Board Order No. 1194, which was issued on July 25, 2001, and which directed the Ministry of Natural Resources to issue a licence to Nichols Gravel Limited under the provisions of *The Aggregate Resources Act* (hereinafter referred to as ARA) to operate a quarry for the removal of aggregate.
2. The licence as delivered by the Ministry of Natural Resources had appended to it a letter requiring Nichols Gravel Limited to complete "23 specific pre-operational conditions" prior to operating the quarry.
3. Thirteen days after delivery of the licence to Nichols Gravel Limited the Ministry of Natural Resources suspended the licence for failure to complete the "23 specific pre-operational conditions".
4. Ultimately, further suspensions were issued and finally a revocation of the licence was issued, all based on the "23 specific pre-operational conditions".

5. To date Nichols Gravel Limited has never received the licence as ordered by the OMB Order No. 1194.
6. The OMB Order was filed pursuant to Section 86 (1) of *The Ontario Municipal Board Act* at the court house at Cayuga on July 27, 2007.
7. Prior to issuance of the licence the Ministry of Natural Resources, hereinafter referred to as MNR, received clarification from counsel to the OMB that a Ministry of the Environment permit to take water was not required until such time as it became necessary to pump water in order for extraction at the quarry. It also indicated that the Board did not intend that any condition imposed by it be incapable of being fulfilled by reason that a technical impossibility made compliance with the conditions impossible or for any reason that make compliance with the order impossible.
8. On February 14, 2003, MNR inspector Cutmore accepted Nichols quarry site plans without revision of amendment while conducting an investigation from August 27, 2002 of an alleged illegal quarry operation.
9. On April 1, 2003 MNR inspector Cutmore and MNR officer Gary Zacher hand delivered the licence 103717 exactly as ordered by the Board, but with a letter dated March 31, 2003, which imposed over and above the Board Order and the licence signed by the Minister March 25, 2003, "23 specific per-operational conditions" which must be satisfied prior to operation of the quarry or removal of material from the licenced property. This directive to the licence from the MNR Aylmer District office was made without legislative or delegated authority of the manager Alec Denys and inspector Curmore or MNR, and was in direct contempt of OMB Order 1194, OMB legislation and ARA legislation as well as the advisement of December 18, 2002 from OMB counsel Mark Michaels.
10. The pre-conspired plan to prevent Nichols quarry from operating was complete when on April 14, 2003, just 13 days after delivery of the licence, a suspension order was issued by MNR to the licence for non compliance to completion of "23 specific pre-operational conditions" not identified in OMB Order 1194 or the licence and the company and Gary, Margaret and Dwayne Nichols were all charged under the ARA, S. 7(1) 57(1) unlawfully "operate a quarry without a licence" all as a result of MNR

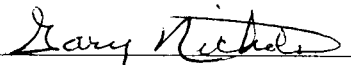
non compliance to OMB Order 1194 which directed no “pre-operational conditions” to the licence.

11. At no point has Nichols Gravel Limited received an operating licence in accordance with the provisions of OMB Order 1194 as directed on July 25, 2001.
12. On June 15, 2006, Nichols Gravel Limited brought an application for Judicial Review resulting in a decision of Mr. Justice Reilly delineating the fact that the “specific pre-operating conditions” did not form part of the licence. This decision was not appealed, neither was it followed by the MNR. Both this decision and the OMB Order 1194 remain extant and unfollowed.

Sworn before me at Haldimand County, in the
Province of Ontario, this 4th day of February,
2009



a Commissioner, etc



Gary Nichols