



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

PRESS RELEASE

September 20, 2007

Osgoode Hall Superior Court of Justice, August 16, 2007

Nichols Gravel Limited and Her Majesty the Queen in Right of the Province of Ontario, Ministry of Natural Resources and the County of Haldimand.

Appeal to the O.M.B. Decision M.C. Denhez September 27, 2006.

The manipulation by the Ministry of the Attorney General Crown Law Office, the Ministry of Natural Resources and this court decision dismissing the Appeal serves to make the **illegal** in the courts view **legal**. The decision by both the O.M.B. M.C. Denhez of September 27, 2006 and this court are in fact an illegal farce in respect to the fact that Mr. Denhez, the M.N.R. and this Court all disregarded and are all in contempt of the June 15, 2006 decision of the Hon. Justice D. Reilly under Judicial Review, which was not appealed by M.N.R. and which declared that Pre Operational Conditions **did not** form part of the licence. These conditions are in fact unenforceable on the licence for the purpose of Revocation of the licence, although confirmed by the decision of M.C. Denhez which in fact was based on 7 remaining uncompleted and illegal Pre operational Conditions from the 23 imposed on licence 103717, March 31, 2003 and not identified in the licence signed by the Minister March 25, 2003.

At court recess Nichols lawyer inquired of the M.N.R. Lawyer Mr. Adamson if there were any grounds for discussion to resolve this dispute, Mr. Adamson responded quote: "No, we don't want Nichols to have a licence." unquote. This response confirms that this has been the game plan as of the day the licence was delivered April, 1, 2003 and M.N.R. conditions directed which prevented the quarry from operating.

This decision now under Appeal.

This continues to be a 4 year horror story of manipulation, discrimination, malicious prosecution, harassment and intimidation to enforcement of fraud to this small business and this family. Rule of Law? What rule of law? Just rule of manipulation of the law by government. Hopefully the Appeal Justices will take note of this unlawful M.N.R. enforcement and provide some justice.

Welcome to the manipulative and unjust Province of Ontario Liberal style.

**SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
COURTROOM 3 - OSGOODE HALL**

Thursday, August 16, 2007
Commencing at 10:00AM

**The Honourable Mr Justice Carnwath
The Honourable Madam Justice Spies
The Honourable Mr Justice Newbould**

To be heard together:

1.

Divisional Court File No: 275/07

Judicial Review – MNR

Applicant(s):

Respondent(s):

Nichols Gravel Limited

Her Majesty the Queen in Right of the Province of Ontario, David Ramsay, Alec Denys, Paul Cutmore, Stuart Thatcher, Gary Zacher, Emilia Kuisma, Eric D'Hondt and John Hamilton

Divisional Court File No: 276/07

Appeal - OMB

Appellant(s):

Respondent(s):

Nichols Gravel Limited

Her Majesty the Queen in Right of the Province of Ontario, the Ministry of Natural Resources and the County of Haldimand

Represented by:

Represented by:

**Paul J. Osier
Arrell Place Law LLP**

**Dennis Brown
Crown Law Office – Civil Law**

**Nicholas Adamson
Legal Services Branch – MNR**

**Sara Premi
Sullivan-Mahoney LLP**

COURT FILE NO.: 276/07

DATE: 20070816

ONTARIO
SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

CARNWATH, SPIES AND NEWBOULD JJ.

B E T W E E N:

NICHOLAS GRAVEL LIMITED

Appellant

- and -

HER MAJESTY THE QUEEN IN THE RIGHT
OF THE PROVINCE OF ONTARIO, MINISTRY
OF NATURAL RESOURCES AND THE
COUNTY OF HALDIMAND

Respondent

ORAL REASONS FOR JUDGMENT

CARNWATH J.

Date of Reasons for Judgment: August 16, 2007

Date of Release: **AUG 27 2007**

COURT FILE NO.: 276/07

DATE: 20070816

**ONTARIO
SUPERIOR COURT OF JUSTICE**

DIVISIONAL COURT

CARNWATH, SPIES AND NEWBOULD JJ.

B E T W E E N:)	
)	
NICHOLAS GRAVEL LIMITED)	<i>Paul J. Osier, for the Appellant</i>
)	
Appellant)	
- and -)	
)	
HER MAJESTY THE QUEEN IN THE)	<i>Dennis Brown and Connie Vernon, for Her</i>
RIGHT OF THE PROVINCE OF ONTARIO,)	<i>Majesty The Queen in the Right of the</i>
MINISTRY OF NATURAL RESOURCES)	<i>Province of Ontario</i>
AND THE COUNTY OF HALDIMAND)	
)	<i>Nicholas Adamson, for Ministry of Natural</i>
Respondent)	<i>Resources</i>
)	<i>Sara Premi, for the County of Haldimand</i>
)	
)	
)	HEARD at Toronto: August 16, 2007

CARNWATH J.: (Orally)

[1] The appeal will be dismissed. It is, of course, the trite law that an appeal from the Municipal Board is founded on an error in law.

[2] The appellant submits the Board made an error in law in failing to understand the nuances of the argument that the revocation of the licence was based on prior allegedly unlawful actions by the Ministry which tainted the ultimate revocation. We reject the submission. We

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find no error of law on this issue or indeed in any aspect of the Board's decision. Reference was made by counsel for the appellant to errors of fact which play no part on the appeal. Nevertheless the Board concluded the appellant was not in compliance with certain conditions in the licence.

[3] It was clear to the Board there were <sup>~~*~~
FALSE</sup> (conditions in the licence) which were not in compliance at the time of revocation, nor at the time of the hearing. These were findings of fact which the Board was entitled to make on the evidence and which we of course cannot disturb.

[4] I endorse Volume I of the Appeal Book and Compendium as follows: "The appeal is dismissed for oral reasons given by Carnwath J. Submissions as to costs, if they cannot be agreed upon, to be submitted by September 1, 2007, limited to three pages."


CARNWATH J.


SPIES J.


NEWBOULD J.

Date of Reasons for Judgment: August 16, 2007

Date of Release: AUG 27 2007