

192/2

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY
THE ATTORNEY GENERAL FOR THE PROVINCE OF ONTARIO**

Plaintiff/Moving Party

- and -

**NICHOLS GRAVEL LIMITED, GARY I. NICHOLS, MARGARET NICHOLS,
DWAYNE NICHOLS**

Defendants

NOTICE OF MOTION

THE Plaintiff, **HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**, will make a motion to a Judge on November 7, 2006, at 10:00 a.m., or as soon after that time as the motion can be heard, at 55 Munsee Street, Cayuga, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

- in writing under subrule 37.12.1(1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

THE MOTION IS FOR:

- (a) an Order for an interlocutory and permanent injunction restraining the Defendants, their members, agents, servants or representatives or their substitutes or anyone acting under their instructions, anyone aiding or assisting the Defendants or anyone having knowledge of this Order or any of them, from operating a quarry on the property located at Pt. Lots 10-12, Concession 12, Haldimand County, (Walpole Township), including producing, processing or shipping of material, until such time as the Minister of Natural Resources grants a licence;
- (b) its costs of this action; and
- (c) such further and other relief as to this Honourable Court deems just

*** THE GROUNDS FOR THE MOTION ARE: FALSIFICATION OF FACT.**

- 1. ~~(On March 31, 2003) the Ministry of Natural Resources ("MNR") issued Class "A" Category 2 Licence, No. 103717, to Nichols Gravel Limited ("Nichols") (to operate a quarry) under the Aggregate Resources Act (the "Act") on Part of Lots 10, 11, 12, Concession 12, in the Former Township of Walpole, Haldimand County;~~
Handwritten notes: FALSE, TRUE: LICENSE HAND DELIVERED APRIL 1/2003, FALSE, TRUE: THE MARCH 31/03 LETTER PREVENTED OPERATION OF THE QUARRY
- 2. The licence was issued subject to 56 conditions set out in Schedules attached as "A" and "B" to the licence;
- 3. On April 14, 2003, Nichols was advised by Notice of Suspension that his licence was suspended for having contravened s.15 of the Act, which states, "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";)~~
Handwritten note: ? PRE "

4. On April 7, 2004, a Notice of Intention to Revoke its licence was forwarded to Nichols
 * ~~FALSE~~ PRE OPERATING CONDITIONS OF MARCH 31/03 LETTER NOT LICENCE.
 because (licence conditions) and site plan infractions as outlined in the suspension notice had
 not been met; * ~~TRUE~~: 23 PRE OPERATING CONDITIONS IMPOSED IN ADDITION TO
 OMB DECISION ORDER 1194 AND NOT FOUND ON LICENCE SIGNED BY THE MINISTER..
5. On October 7, 2004, a Notice of Revocation for Licence No. 103717 was forwarded to
 Nichols for failing to comply with (10 conditions of its licence);
 * ~~FALSE~~
 * ~~TRUE~~: 10 PRE OPERATING CONDITIONS NOT FOUND IN CONDITIONS
 OF LICENCE.
6. On or about October 26, 2004, Nichols requested a hearing by the Ontario Municipal Board
 (OMB) to review the revocation of its licence.
7. From September 5 – 8, and September 12, 2006, a hearing was held before the OMB. A
 decision was released on September 27, 2006, confirming the Minister's revocation of the
 licence. The OMB held that there had been a multiple contravention of the site plan and the
 conditions of the licence.
 * ~~FALSE~~
 * ~~TRUE~~: OMB CHAIRMAN M.C. DENHEZ DISREGARDED JUSTICE
 D. REILLY DECISION OF JUNE 15/2006, WHICH RULED THAT PRE
 OPERATING CONDITIONS ARE NOT CONDITIONS OF LIC. 103717.
8. Inspections of the quarry site from August 27, 2002 to October 2006 by MNR employees
 reveal that Nichols has (continued to operate a quarry) on the above noted property previous
 to being issued a licence and subsequent to the licence suspension, revocation, and the
 September 2006 decision by the OMB;
 * ~~FALSE~~
 * ~~TRUE~~: NO QUARRY OPERATION WHEN IN 2003 MNR
 INTIMIDATED CRUSHING CONTRACTOR WHO MOVED CRUSHER OUT; NO PRODUCT TO SELL.
9. (Nichols is operating without a licence,) in violation of the *Aggregate Resources Act*;
 * ~~FALSE~~ * ~~TRUE~~: NICHOLS OPERATING UNDER VALID LICENCE ILLEGALLY REVOKED
 THROUGH FORGERY AND FRAUDULENT ENFORCEMENT, BY M.N.R.
10. The continuation of the unlicensed quarry operation jeopardizes the environment, ground
 water and neighbouring properties if the Order is not granted; * ~~FALSE~~
 * ~~TRUE~~: NO EVIDENCE PROVIDED IN 5 DAYS OF OMB HEARING TO
 SUPPORT THIS FALSE SPECULATION OF FACT.
11. Sections 7, 15 and 22 of the *Aggregate Resources Act*;

12. Section 101 of the *Courts of Justice Act*;

13. Rule 40.01 of the *Rules of Civil Procedure*; and

14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The pleadings herein;
2. The Affidavit of Emmilia Kuisma, sworn July 27, 2006 (Affidavit 1 of 4);
3. The Affidavit of Emmilia Kuisma, sworn July 27, 2006 (Affidavit 2 of 4);
4. The Affidavit of Emmilia Kuisma, sworn July 27, 2006 (Affidavit 3 of 4);
5. The Affidavit of Emmilia Kuisma, sworn July 27, 2006 (Affidavit 4 of 4);
6. The Affidavit of Gary Zacher, sworn July 27, 2006; and
7. Such further and other material as counsel may advise and this Honourable Court may permit.

October 16, 2006

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

OSGOODE HALL
"JUSTICE FOR ALL"

* NO, JUSTICE FOR NO ONE
WHEN GOVERNMENT MANIPULATES
THE COURTS, ENFORCES FRAUD
AND FAILS TO COMPLY WITH THE
"RULE OF LAW."

* WHAT A PATHETIC CORRUPTED
PERFORMANCE BY GOVERNMENT
IN THE MISREPRESENTATION OF
SERVING THE "PUBLIC INTEREST."

Mary Nichols

Dennis W. Brown, Q.C.
LSUC # 104680
T: 416-326-4156
Connie Vernon
LSUC # 43385J
T: 416-314-4392
F: 416-326-4181
Of Counsel for the Plaintiff

TO: ARRELL PLACE LAW LLP
Barristers & Solicitors
41 Caithness Street West
Caledonia, Ontario N3W 2J2

Mr. Paul J. Osier
T: 905-765-5414
F: 905-765-5144

Solicitors for the Defendants

CLAIM

The plaintiff's claim is for:

- (a) an Order for an interlocutory and permanent injunction restraining the Defendants, their members, agents, servants or representatives or their substitutes or anyone acting under their instructions, anyone aiding or assisting the Defendants or anyone having knowledge of this Order or any of them, from operating a quarry on the property located at Pt. Lots 10-12, Concession 12, Haldimand County, (Walpole Township), including producing, processing or shipping of material, until such time as the Minister of Natural Resources grants a licence;
- (b) its costs of this action; and
- (c) Such further and other grounds as counsel may advise and this Honourable Court may permit.

October 16, 2006

**MINISTRY OF THE ATTORNEY
GENERAL**

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HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY THE ATTORNEY GENERAL
FOR THE PROVINCE OF ONTARIO

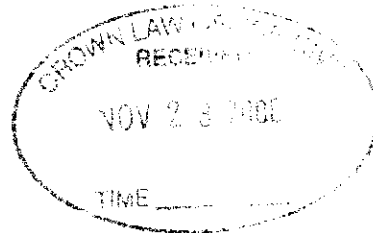
v.

NICHOLS GRAVEL LIMITED, GARY I. NICHOLS,
MARGARET NICHOLS, DWAYNE NICHOLS

Plaintiff

Defendants

Court File No. 192/2006



SUPERIOR COURT OF JUSTICE
(Action commenced at Cayuga)

ORDER

MINISTRY OF THE ATTORNEY GENERAL

Crown Law Office - Civil
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Toronto, Ontario M5G 2K1

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of counsel for the Plaintiff



Toby
BARRETT
MPP, Haldimand-Norfolk-Brant

Monday, June 4, 2007

Hon. David Ramsay
Whitney Block
6th Flr Rm 6630
99 Wellesley St W
Toronto ON M7A1W3

Dear Minister Ramsay:

Please find attached a letter that has been copied to me with regard to a quarry licensing issue that continues to prevent constituents of mine from operating their gravel quarries to their full potential.

As you can see from his letter, Gary Nichols feels that he is being intimidated and harassed by MNR to force him to meet "23 Specific Pre- Operating Conditions" to his license that he contends -- and "3 different court decisions have ruled" -- were "not...part of the license".

Please look into Mr. Nichols concerns and copy my office with your reply and findings.

Sincerely,

MPP Toby Barrett
Haldimand-Norfolk-Brant

TBB/rw

Ministry of Natural
Resources

Office of the Minister

Room 6630, Whitney Block
99 Wellesley Street West
Toronto ON M7A 1W3
Tel: 416-314-2301
Fax: 416-314-2216

Ministère des Richesses
naturelles

Bureau du ministre

Édifice Whitney, bureau 6630
99, rue Wellesley Ouest
Toronto (Ontario) M7A 1W3
Tél.: 416-314-2301
Télééc.: 416-314-2216



MNR1205MC-2007-1915

JUN 14 2007

Mr. Gary Nichols
Nichols Gravel Limited
P.O. Box 172
Delhi ON N4B 2W9

Dear Mr. Nichols:

Thank you for your letter regarding the enforcement of specific pre-operating conditions on your licence 103717 with respect to your gravel quarry operations. Mr. Toby Barrett, MPP for Haldimand-Norfolk-Brant, has also brought your concerns to my attention.

As matters pertaining to your company are currently before the courts, it would be inappropriate for me to comment at this time.

Thank you for writing.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Ramsay', written over a horizontal line.

Hon. David Ramsay
Minister

c: Premier Dalton McGuinty
The Honourable Michael Bryant, Attorney General of Ontario
Toby Barrett, MPP, Haldimand-Norfolk-Brant



June 12, 2007

Ministry of the Attorney General
Minister Michael Bryant

Dear Sir:

This letter provided as a follow up to our letter to you of May 31, 2007 and our request for investigation into the conduct and performances over the past 4 plus years of Ministry of Natural Resources staff and lawyers representing the Crown and this Ministry in regard to Nichols Gravel Limited, Quarry Licence 103717 and the court confirmed illegal M.N.R. enforcement of 23 Specific Pre Operating Conditions imposed upon the licence in the March 31, 2003 letter from the M.N.R. Aylmer district office, which 3 separate Court decisions have now confirmed do **not** form part of the licence. These decisions in fact serve to confirm the falsification of government documents and the extended enforcement of fraud through the various charges with intimidation and harassment to enforcement to compliance to these Pre Operating Conditions in contempt of court, with charges for obstruction and operating an illegal quarry still pending before the courts.

We provide to you the following fact:

1. The licence 103717 hand delivered by M.N.R. Inspector Mr. Cutmore April 1, 2003 was pre emptied by the March 31, 2003 letter which directed that Quote: We have also attached a separate list of 23 of the original fifty six conditions entitled as "Specific Pre Operational Conditions" which must be satisfied prior to the operation of the quarry or removal of material from the licenced property. Unquote.

Comment:

The July 25, 2001 Decision Order #1194 stated Quote: The Board Directs the Minister pursuant to Section 11 (8) of the Aggregate Resources Act R.S.O. 1990 to issue a Class "A" licence for the "**removal** of **aggregate**" from land composed of Part of Lots 10, 11, and 12, Concession 12 in the City of Nanticoke, subject to the following conditions:

1. The applicant shall obtain a long-term Water Taking Permit issued by the Ministry of the Environment.
2. The applicant **shall** fulfill a set of conditions as set out in Attachment "2".

The licence is for (**removal** of **aggregate**) to the bottom of the Bois Blanc formation only and there is to be no quarrying of the Bertie formation at this location. The action plan is attached as Attachment "3".

Conclusion:

Alec Denys and Paul Cutmore did **not** comply with the Board Order. On April 1, 2003 a licence was **not** provided to Nichols Gravel Limited as an operational licence as ordered by the Board for the "Removal of Aggregate".

This Board order was deferred and pre-empted as well as the licence signed by the Minister March 25, 2003, by the requirement of compliance and completion of 23 Specific Pre Operational Conditions as directed to be completed **prior** to quarry operation or removal of material from the property as directed in the March 31, 2003 letter.

Mr. Denys and Mr. Cutmore were delegated and responsible under their appointed designation under Aggregate Act legislation for the administration and enforcement of this Act. They possessed no legislative authority to review, alter, or change the O.M.B. Decision Order.

They cannot plead that they were unaware of **Section 11 Sub. 15, No** "Petition or Review" which prevents anyone and everyone from reviewing, altering, or changing an O.M.B. Final Decision/Order.

See: O.M.B. clarification letter October 10, 2002.

This illegal direction to compliance to the Pre Operating Conditions that cannot be identified in the licence was further enforced through multiple productions of falsified documents which were the Suspension of licence order dated April 14, 2003, the revised Suspension order of October 1, 2003, the Notice of Intention to Revoke Licence April 7, 2004, and finally the Revoke of Licence order Dated September 30, 2004 signed by the Minister Mr. Ramsay all based on non compliance to illegally imposed Specific Pre Operational Conditions.

Letter of July 14, 2004 informed Minister Ramsay of these problems and requested that he immediately resolve the matter. There was **no** response from Mr. Ramsay until **after** he signed the Revoke Order on the licence September 30, 2004 and was again contacted by letter which he then acknowledged our letter by letter received almost one month after the Revoke Order was signed.

See: Letters July 14, 2004, Nichols October 26, 2004, Mr.Ramsay October 28, 2004 received, Nichols November 11, 2004, Mr. Ramsay November 17, 2004

After the June 15, 2006 decision of Hon. Justice D. Reilly which the M.N.R. did **not** acknowledge or **appeal**, the M.N.R. promoted the further obstruction of Justice at the O.M.B. hearing September 5, 2006 on the Revoke of licence order when lawyer Nicholas Adamson misrepresented to Chairman M.C. Denhez that Pre operating conditions imposed on licence 103717 were in fact conditions of licence, when in fact M.N.R. was previously well aware of Justice Reilly decision declaring the Pre Operating Conditions

did **not** form part of the licence and further indicated in his decision that the licence was exactly as signed and issued by the Minister March 25, 2003. Chairman Denhez was also negligent in his total disregard of our evidence as well as Justice Reilly's decision and confirmed the M.N.R. Revoke of licence order.

On November 7, 2006 Dennis Brown Q.C. representing the Crown and Connie Vernon representing the M.N.R. produced another falsified document to the court in the application for court injunction to prevent any further operation of Nichols Quarry.

Falsified information has been identified in paragraph # 1, 3, 4, 5, 7, 8, 9 and 10. The Court granted the Injunction November 20, 2006 based on misrepresented evidence provided to the court as again Specific Pre Operating Conditions in spite of Justice Reilly's decision and in contempt of court were again represented as conditions of licence.

In respect to your responsibility to the public interest for the administration of Justice and enforcement of rule of law, I again hereby request that this matter be immediately investigated under the Criminal Code Sections: **361 (1)(2)** False pretense, **362 (1)(A)** False pretense or false statements, **366 (1)(A)(B)** Forgery **(2)** making a document, **(3)** when Forgery complete, **368 (1)** uttering Forged Document **(A)(B)** and the following persons be investigated in respect to these charges:

Hon. David Ramsay Minister of M.N.R.
Stuart Thatcher Policy Manager
Alec Denys
Paul Cutmore
Gary Zacher
Emillia Kuisma

Lawyers: Dennis Brown Q.C.
Demetrius Kappos
Nicholas Adamson
Constance Vernon

As an alternative to a costly long drawn out investigation and possible prosecution at the public expense, we suggest the following direction from your office to immediately resolve this matter.

Relief Sought:

1. That the Court Injunction to licence 103717 be immediately withdrawn.
2. That licence 103717 be immediately reinstated to M.N.R. records as a valid operational licence.
3. Confirmation from M.N.R. that the 56 conditions of licence are operational conditions and **not** pre operating conditions.

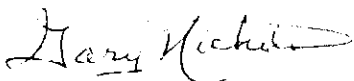
4. Confirmation and agreement by M.N.R. to amend the site plan as required by both the owner and the M.N.R.
5. A direction for review to amend the Aggregate Resources Act to prevent further infringement to Property and Charter Rights.
6. An order to M.O.E. Water Resources director Paul Odom to issue the amended Permit to Take Water as applied for March 29, 2005 in order to eliminate the Fraudulent P.T.T.W. with 24 Pre Dewatering conditions issued June 20, 2003. Permit #03-P-2244.
7. An order to reinstate the P.T.T.W. capacity for Nichols Pit #2 which was reduced without consultation or reasons upon recent renewal of this permit.
8. An order to reinstate the Permit removed from Nichols Pit #3 as previously granted.
9. An order that all outstanding charges by M.N.R. to Nichols Gravel Limited and its officers be withdrawn.
10. An order to Haldimand County to immediately complete the property assessment and approval for water discharge from licence 103717 to the Harrop drain.

Please be advised that if there is no appropriate response from your office before June 22, 2007, this letter shall be distributed publicly and placed on our website, and we shall proceed to make preparations for our next dump truck protest of 50 plus trucks to Queen's Park unannounced where we may create traffic chaos in order to attract media attention to this problem.

Information Ref: www.injusticecanada.com

I thank you for your attention to this matter.

Yours sincerely,



Gary Nichols

Ottawa

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 Ottawa, Ontario
 K1A 0A6
 Tel: (613) 992-3118
 Fax: (613) 992-6382
 Email: stama@parl.gc.ca



HOUSE OF COMMONS

Lloyd St. Amand
 Member of Parliament for Brant

Constituency

98 Paris Road, Unit 3
 Brantford, Ontario
 N3R 1H9
 Tel: (519) 754-4300
 Fax: (519) 751-8177
 Email: stama@parl.gc.ca

June 18, 2007

Ms. Sharon McFadden
 P.O. Box 172
 Delhi, ON
 N4B 2W9

Dear Ms. McFadden,

Thank you for contacting my office with respect to difficulties that you are experiencing in obtaining a license to open a quarry in Hagersville.

As you are aware, the issue falls within the jurisdiction of the provincial government and, for that reason, you have pursued the proper course in contacting MPP Toby Barrett and MPP Dave Levac.

Although it would be improper for me, as Federal Member of Parliament, to directly intervene in the matter, I shall certainly contact MPP Dave Levac and impress upon him the difficulties which your company is experiencing and the frustration that you naturally feel as a result of the difficulty.

Allow me to wish you success in obtaining a resolution which is satisfactory for you.

Yours truly,

Lloyd St. Amand, M.P.
 Brant