



PL990656

DATE: JULY 25, 2001
DECISION/ORDER NO. 1194

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Nichols Gravel Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1-NA86 of the City of Nanticoke to rezone lands composed of Part of Lots 10, 11 and 12, Concession 12 to quarry and operate an aggregate supply business
OMB File No. Z990094

The Minister of Natural Resources has referred to the Ontario Municipal Board under subsection 11(5) of the *Aggregate Resources Act* R.S.O. 1990, c. A.8, as amended, an application for a Class "A" licence for the removal of aggregate from lands being composed of Part of Lots 10, 11 and 12, Concession 12, in the City of Nanticoke
OMB File No. M000002

BEFORE:

G. A. HARRON) Tuesday, the 3rd day of
Member)
) April, 2001

**CERTIFIED TO BE
A TRUE COPY**
JUL 24 2007
[Signature]
ONTARIO MUNICIPAL BOARD

THIS MATTER having come on for public hearing;

THE BOARD FURTHER ORDERS that the appeal by Nichols Gravel Limited to amend Zoning By-law 1-NA86 of the City of Nanticoke is allowed and Zoning By-law 1-NA86 is amended in the form as set out in Attachment "1" and forming part of this Order. The Township is hereby authorized to assign a by-law number to this document for record-keeping purposes.


THE BOARD DIRECTS the Minister, pursuant to Section 11(8) of the *Aggregate Resources Act*, R.S.O. 1990, to issue a Class "A" license for the removal of aggregate from lands 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 fulfil a set of conditions as set out in Attachment "2".

The license is for the 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".



ACTING SECRETARY

ENTERED AT CAYUGA
in Book No. 2007
as Document No. 47
on July 2 2007
by 



ARRELL PLACE LAW LLP

(Established 1898 by Harrison Arrell, Q.C.)

BARRISTERS, SOLICITORS & NOTARIES

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31 July 2007

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

* Attn: Mr. Dennis W. Brown, Q.C.

Dear Sir:

Re: Nichols Gravel Limited: Court File No. 148/07, Cayuga

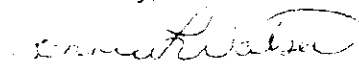
Please be advised, that under the Ontario Municipal Board Act, Section 86 (1), "Enforcement of Orders", supported by the court decisions of January 28, 2004, June 15, 2006 and March 12, 2007, which have confirmed that 23 specific per-operational conditions do not form part of Licence #103717, a Judgment Order has been filed with the Superior Court of Justice in order to enforce compliance to the Ministry of Natural Resources to Ontario Municipal Board Decision/Order 1194.

We further advise that any enforcement of charges related to any conditions which cannot be identified in OMB Decision/Order 1194 or the licence as signed by the Minister, March 25, 2003, or which do not comply explicitly with *The Aggregate Act* legislation will be considered to be contempt of court, which shall immediately provoke such charges to both the MNR and the Crown.

It is suggested, at this time, that all outstanding matters including damage claims should be resolved immediately as Mr. Nichols has been contacted by members of the Six Nations Confederacy, and it has been drawn to his attention that at least part of the quarry lies within the Six Nations Plank Road Treaty Land Claim, which extends one half mile either side of Highway # 6. Mr. Nichols has been requested to attend before the Six Nations Land Claims Committee to discuss this matter further, to which Mr. Nichols has agreed.

My client further advises that the quarry shall be reopened for business as of August 20, 2007, assuming a favourable court result on August 16, 2007. We are hopeful to avoid bringing contempt proceedings under the OMB Order as presently filed in court. As of further assistance I am enclosing a photocopy of the portion of the lands claimed by the Six Nations.

Yours truly,



ARRELL PLACE LAW LLP

Paul J. Osier

PJO/bw

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August 1, 2007

Mr. Paul J. Osier, B.A., L.L.B.
Arrell Place Law LLP
Barristers, Solicitors, And Notaries
Arrell Place, Main Level
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Caledonia, ON N3W 2J2

Dear Mr. Osier:

**Re: OMB Case No: PL990656
OMB Decision/Order No. 1194
Nichols Gravel Limited**

The Board is in receipt of your correspondence dated July 23, 2007 where you have requested that the Board determine, whether or not the terms of its Order have been complied with by the Ministry of Natural Resources and the Ministry of the Environment, and whether the Board will provide further direction to both Ministries.

As the Board does not enforce its own decisions or orders, the Board will not be able to accede to your request.

As directed in Section 86 of the *Ontario Municipal Board Act*, as the Board does not have a method for enforcing its own orders, a Board order is enforced by filing the order with the Superior Court of Justice.

Yours truly,

A handwritten signature in black ink that reads "Michael W. Nicol". The signature is written in a cursive style and is positioned above a horizontal line.

Michael W. Nicol
Legal Counsel

/zsa

cc: Joe Fontana