



September 19, 2002

IN THE MATTER OF:

**Application for Immediate Entry
Quarry License #925
Russell Redi-Mix**

DECISION OF THE MINING BOARD

Participating Board Members:

Roy McPhail - Presiding Member
Barbara Sherriff - Deputy Presiding member
Ernie Guiboche – Member
Alan Paupanekis - Member
Harvey Slobodzian - Member

REASON FOR APPLICATION

On September 6, 2000, Manitoba Industry Trade and Mines received a letter from Crush Rite Construction, holder of Manitoba Quarry Lease #925, giving Ken Magnowski or Russell Redi Mix full authorization to negotiate the removal of gravel from this lease.

Russell Redi-Mix and the surface rights owners, Mike and Kylee Nykolation, have not been able to reach agreement on the terms by which Russell Redi-Mix would be allowed to remove the aggregate material from the area specified in the Quarry Lease.

On August 16, 2002, the Board received an application under Section 40(1) of the *Mines and Minerals Act* from Russell Redi-Mix Concrete, leaseholder of Quarry Lease #925, asking that the Board make a decision in this matter.

On August 26, 2002, the Board received an Application for Immediate Entry under Section 156 of the *Act*. This decision deals only with that Application. The amount of final compensation will be set by the Board at a separate hearing.

On September 13, 2002, the Board received a letter in support of the application from Ken Magnowski of Russell Redi-Mix. On September 16, 2002, the Board received a letter in opposition to the application from Mike and Kylee Nykoliation.

DECISION

It is the decision of the Board to grant the application for immediate access with the following interim conditions:

1. the leaseholder will pay to the Board a cash deposit of \$30,000;
2. the property owners will receive from the leaseholder, copies of the weigh scale receipts to account for the amount of aggregate removed from the property, or some other mutually agreeable method of measurement;
3. quarrying will not be carried out within 100 feet of the established tree line.

The Board reviewed the other concerns raised by the property owners and refers both parties to Manitoba Regulation 65/92, specifically Sections 40 (Landscape screen adjoining highways and residences) 43 (Setbacks), 44 (Blasting) and Section 46 (Noise Nuisances other than blasting).

The property owners' concerns about rehabilitation of the property are the responsibility of the Province of Manitoba, through the Quarry Rehabilitation Reserve Account, pursuant to Section 200 of the *Mines and Minerals Act*.



Roy McPhail
Presiding Member
On behalf of the Board