



November 15, 2002

IN THE MATTER OF:

**Setback from High Pressure Water Line
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
Harvey Slobodzian - Member

DECISION

The setback for the high pressure water line that divides quarry pit B (Tab 5 of Russell Redi-Mix Concrete submission to the October 19, 2002 hearing) from quarry pit C may be set at 6.72 meters on both the east and west sides. The Mines Inspector may, at his discretion, increase this setback should site conditions warrant.

REASON FOR DECISION

The intent of Section 162(1) of *The Mines & Minerals Act* is to ensure that great prudence is exercised when undertaking activities near certain pipelines. Pipelines that transport “petroleum product” fall within the letter of Section 162(1), although the phrase is not defined. The Director of the Petroleum Branch, and the Director of the Minerals Branch, in their joint Memorandum to the Assistant Deputy Minister dated October 22, 2002, provide opinion that the water not be considered a petroleum product as it relates to the Act. The opinion is rendered in the full knowledge that the consequence of failure of the pipeline in question would be “very serious indeed”, since the water in question is highly contaminated and would be very difficult to contain. It is also clear that the precedence of this interpretation of the Act has been clearly understood by the Department.

The Board has weighed the opinion of the Department, and concurs. The intent of Section 162(1) is “in relation to large pipeline facilities (e.g. Enbridge, Trans Canada etc)”, and the existing safeguards that delegate discretion to Director level are sufficient for “smaller oil field pipeline and flow line facilities”.

A handwritten signature in black ink, appearing to read "Roy McPhail". The signature is written in a cursive, flowing style.

Roy McPhail
Presiding Member
On behalf of the Board