DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND OR 97208-2870

Program Support Division

DEC 03 2007

Mr. Charles Kugler, L.L.C.
748 Ann Avenue
Kansas City, Kansas 66101

Dear Mr. Kugler:

This is in reference to your letter of October 12, 2007, Kaw Valley Sand and Gravel, Request for Appeal (RFA) of the denial of a permit in the Missouri River by the Kansas City District (200101436).

As you know, the action to deny your permit was part of a combined evaluation of ten individual commercial sand and gravel dredging operations. The Northwestern Division has also received RFAs from other denied applications. Additionally, the Kansas City District has received requests for modification of the initial proffered permits.

We have been in contact with the Kansas City District and have determined that continued consideration of the various projects by means of combined action(s) is appropriate and prudent. As such, we request you submit any further reasons for objection to the Kansas City District for inclusion in their reevaluation process in accordance with the letter that Kansas City District recently sent to you (Enclosure 1).

The Northwestern Division will hold your RFA of your permit denial in abeyance pending the conclusion of the District's reconsideration of your objections. If you are not satisfied with the District's decision, you can resubmit your RFA to the Division within 60 days from the date of the Kansas City District's completion of the combined reevaluation.

A copy of this letter will be furnished to Kansas City District, U.S. Army Corps of Engineers. Questions regarding the Kansas City District's reevaluation should be directed to Mark Frazier at 816-389-3664. If you have any questions about the RFA to the Northwestern Division, please contact Dave Gesl at the above address or at 503-808-3825.

Sincerely,

Steven R. Miles
Colonel, US Army
Division Commander

Enclosure

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DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

REPLY TO
ATTENTION OF:

November 5, 2007

Regulatory Branch
(2001-01436)

The Law Office Of
Charles D. Kugler, LLC
748 Ann Avenue
Kansas City, Kansas 66101

Dear Mr. Kugler:

On August 20, 2007, we issued a Combined Decision Document for ten applications for Department of the Army (DA) permits for commercial sand dredging in the Missouri River. In that decision we determined that issuance of any permits for extraction of material in excess of the amount extracted in 2006 would be contrary to the public interest and result in the potential for significant environmental impacts.

To limit future annual extraction to 2006 levels and minimize the potential for significant environmental impacts, we denied DA authorization for six applicants including Washington Sand Company, Inc. (2001-01432); St. Charles Sand Company (2001-01433); Edward N. Rau Contractor Company (2001-01435); Kaw Valley Sand & Gravel, Inc. (2001-01436); 85th Street Inc. (2003-01640); and Muenks Brothers Quarries (2004-00378) and proffered initial DA permits to four companies including Capital Sand Company, Inc. (2001-01429); Hermann Sand and Gravel, Inc. (2001-01430); Holliday Sand and Gravel Company (2001-01431); and Con-Agg of MO, LLC (2001-01434). Pursuant to 33 C.F.R. Part 331.5, several companies have requested reconsideration of the terms and conditions of the initial proffered permits and the permit denials. We are examining the issues outlined in these requests and will send all ten applicants a supplemental statement of findings addressing the reconsidered issues and any revisions to the decision documents for the projects.

A Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) will also be sent at that time. If you wish to appeal the final DA permit decision to the Division Engineer, you will be able to complete Section II of the FORM and submit, with the unsigned permit forms, to Mr. David W. Gesl, Appeal Officer, U.S. Army Corps of Engineers, Northwestern Division, 1125 NW Couch St., Suite 500, Portland, Oregon, 97209-4141. You will have an additional 60 days from the date of that letter to appeal the final decision.

Encl

If you have any questions about this issue, please feel free to write me or to call Mr. Cody Wheeler at (816) 389-3739 or Fax (816) 389-2032.

Sincerely,

Mark D. Frazier
Acting Chief, Regulatory Branch
Kansas City District

Copy Furnished:

Mr. David W. Gesl
Appeals Officer, Northwestern Division