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

Program Support Division

JUL 5 2011

Mr. Aaron C. Courtney
Stoel Rives LLP
900 S.W. Fifth Ave, Suite 2600
Portland, OR 97204-1268

Dear Mr. Courtney:

The initial review of your Request for Appeal (RFA) of a permit action by the Kansas City District involving commercial sand dredging in the Missouri River has been completed. The permit in question is NWK-2011-363 (Holliday Sand & Gravel, LLC). The District's decision is currently not an appealable action.

The District identified its action as a "proffered" permit in the Notification of Administrative Appeals Options and Process and Request for Appeal form (NAO/NAP). However, per the appeal regulation at 33 C.F.R. 331.2, the first time a permit is sent to the applicant, it is an "initial proffered" permit. By regulation, initial proffered permits are not appealable actions. Regulations allow the opportunity to object to the terms and conditions of the initial proffered permit, but require the District to reconsider its decision. If the District then decides a second reconsidered permit is appropriate, it is then defined by regulation as a "proffered" permit and may be appealed to the Division Office.

Please pursue your objections to the terms and conditions of the initial proffered permit with the District. The RFA has been forwarded to the Kansas City District. Please contact Mark Frazier, Kansas City Regulatory Chief at (816) 389-3664, to discuss reconsideration of the initial proffered permit.

If you have any questions, please contact my Appeals Review Officer, Mr. David Gesl, at (503) 808-3825.

Sincerely,

Lorelynn M. Rux

Lorelynn M. Rux
Chief, Program Support Division

cf: CENWK-OD-R (Frazier)
CEMVD-PD-KM (Wiseman)