



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199



REPLY TO

February 13, 2010

Regulatory Branch

SUBJECT: Permit Requirements for Proposed Work, Department of the Army No. 2006-01186,
New York State Department of Environmental Conservation No. 8-3436-00033

Mr. John Hellert
Continental Placer, Inc.
26 Computer Drive West
Albany, New York 12205

Dear Mr. Hellert:

I am writing to you in reference to the proposed Frontier Stone, LLC Shelby Quarry, located south of Fletcher Road in the Town of Shelby, Orleans County, New York.

Under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers has regulatory authority over construction, excavation, or deposition of materials in, over, or under navigable waters of the United States. Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as landclearing using mechanized equipment and/or sidecasting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act.

We have received copies of correspondence and environmental documentation regarding this proposal over the course of several years, but no direct communication from you requesting verification of the wetland delineation report included in the DEIS. This report indicates that there may be waters regulated under Section 404 of the Clean Water Act within the boundaries of the project area, specifically, old drainageways in the southern portion of the site which may have developed wetland characteristics. In addition, aerial photographs suggest that some of the southern portion of the site may contain wetland areas (even though these areas have been in agricultural production).

Due to the presence of these features, I strongly encourage you to submit, directly to this office, a request to have this delineation field verified and a jurisdictional determination made for the project site. Please reference Department of the Army No. 2006-01186 in any

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correspondence relating to this matter.

Should work begin in an area which is within Department of the Army jurisdiction without proper authorization, you may incur a violation of Federal law. If that happens, your project may be stopped, a full or partial restoration of the jurisdictional area may be required, and/or you may be subject to civil and/or criminal penalties.

A copy of this letter has been sent to David Bimber.

Questions pertaining to this matter should be directed to me at (716)879-4314, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: steven.v.metivier@usace.army.mil

Sincerely,

A handwritten signature in black ink, consisting of the letters 'SVM' in a stylized, cursive font, enclosed within a hand-drawn oval.

Steven V. Metivier
Biologist

Enclosures