

d1
16210
17 January 1980

Navigability Determination concerning Irwindale Quarry

Legal Officer

Chief, Marine Safety Division

Ref :(a) Your memo 16210 of 28 Dec 1979

1. I have reviewed the information provided by you in reference (a). It is my opinion that, in accordance with your recommendation, the waters contained in the quarry belonging to the Brown Company located in Irwindale, California referred to which reference (a) refers does not constitute navigable waters of the United States.

2. The reasons for this determination are as follows:

a. The water in the gravel quarry exists as a result of ground water seepage.

b. This water is not now nor has it ever been connected to a waterway capable of carrying waterborne interstate commerce.

c. Although the gravel quarry is located adjacent to the San Gabriel River, there is no apparent connection between these bodies of water.

d. There is no evidence to indicate that the San Gabriel River is now, has ever been or can reasonably be made susceptible to use for the purposes of interstate commerce.

e. There is no evidence that the water in the gravel pit is now, has been or can reasonably be made susceptible to the carrying of interstate commerce.

f. The gravel quarry is not tidally influenced.

g. Although the entire area in the vicinity of and including the quarry is part of the original bed of the San Gabriel River, the river is now completely channelized and contained within levees. Also, immediately upriver from the quarry is the Santa Fe Flood Control Basin. Thus it is not likely that the river, even at flood stage, will ever flow across the location of the quarry.

h. The Army Corps of Engineers does not consider the body of water in the quarry to be navigable under the Rivers and Harbors Act.

3. I have sent a letter to the law firm of Covington & Burling, representing the operators of the gravel quarry notifying them of this determination.


D. F. MEADE

Encl: (1) Our ltr 16210 of 14 Jan 1980

RSMATTHEW:pef 17jan80

Memorandum

MOCS
16210

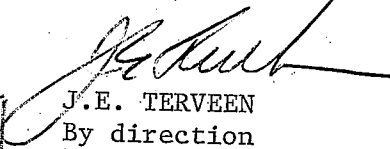
DATE: 28 December 1979

SUBJECT: Request for Navigability Determination

FROM : m

TO : dl

1. The sand and gravel quarry located in Irvindale, California which is operated by the Brown Company has been investigated for a navigability determination.
2. The quarry has been mined for approximately 40 years. In the last two years the water table in the area has risen and now covers most of the floor of the quarry. The water is totally contained within the quarry and it could not feasibly escape or be removed.
3. The U. S. Corps of Engineers indicated that they do not consider the body of water navigable under section 10 of the Rivers and Harbors Act.
4. The corps of Engineers and County flood Control Districts indicated that they do not foresee any flood control projects in the area in the near future.
5. Historically the area has never been used for waterborne commerce, nor is capable of being used for that purpose.
6. Photos of the Quarry were taken and will be forwarded when available.
7. It is recommended that the quarry be determined to be non-navigable.


 J.E. TERVEEN
 By direction

DISTRICT LEGAL OFFICE
RECEIVED

JAN 03 1980

COMMANDER, ELEVENTH
 COAST GUARD DISTRICT
 LONG BEACH, CALIFORNIA

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