The Honorable Merrill M. Townley  
Missouri House of Representatives  
State Capitol, Room 302A  
Jefferson City, MO  65101

Dear Representative Townley:

A few weeks ago, you contacted the office of the Missouri Attorney General to obtain information regarding sand and gravel mining enforcement. You asked for a list of all Notices of Violation issued to sand and gravel operations since October 1, 2002, and a breakdown showing the number of such notices that have been referred to the Attorney General’s Office for resolution versus the number that are being handled by the Missouri Department of Natural Resources (MDNR). You indicated you would like the information broken down by county.

The Attorney General’s legislative liaison, Brett Berri, indicated they do not have this information, but the Missouri Department of Natural Resources, Land Reclamation Program, does and would seek our assistance. He indicated you expect this information in early November.

The information you requested is attached. The table shows there have been fifteen Notices of Violation issued to sand and gravel operations in the last year. Please note these were issued to a total of eight operators. Five had not obtained a permit to mine sand and gravel or to discharge wastewater. The others mined outside their approved permit conditions. Two operators (representing six of the notices) have been referred to the Attorney General’s Office for resolution after the department's administrative attempts failed to resolve the violations. A description of each situation is available for your review in the attached table. Also included for your information are photographs of the damages to stream areas noted at these sites.
If you have any questions or need more information, please contact me at (573) 751-4732.

Thank you.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES

Original signed by Stephen Mahfood

Stephen Mahfood
Director

SM:lcs

Enclosures

c: Mr. Brett Berri, Legislative Liaison, AGO
   Mr. Daniel R. Schuette, Deputy Director, ALPD, MDNR
<table>
<thead>
<tr>
<th>Permittee</th>
<th>County</th>
<th>Enforcement Action Number</th>
<th>Enforcement Received Date</th>
<th>Regulation</th>
<th>Nature of the Violation</th>
<th>Commodity Mined</th>
<th>Termination Issue Date</th>
<th>Staff Assessment Amount</th>
<th>AGO Referral Date</th>
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</thead>
<tbody>
<tr>
<td>Tri-City Sand &amp; Gravel</td>
<td>Barry</td>
<td>896-001</td>
<td>12/20/2002</td>
<td>444.770</td>
<td>The operator has failed to obtain a Permit for their in-stream sand and gravel site on Big Sugar Creek in Barry County.</td>
<td>Sand, Gravel</td>
<td>7/11/2003</td>
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<tr>
<td>WMK Materials, Inc.</td>
<td>Taney</td>
<td>915-001</td>
<td>3/11/2003</td>
<td>444.770</td>
<td>The operator has failed to obtain a Permit To Engage In Surface Mining prior to affecting approximately 56 acres of land (26 acres as Open Pit mining and 30 acres of In-Stream mining) as part of three surface mining operations. The operator has also created a reclamation liability as a result of the mining practices used at the in-stream operations.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
<td></td>
<td></td>
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<tr>
<td>WMK Materials, Inc.</td>
<td>Taney</td>
<td>915-002</td>
<td>3/11/2003</td>
<td>10.050(6)(A)1</td>
<td>The operator has failed to properly salvage, store, and protect topsoil on approximately 26 acres of land as per the rules and regulations.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
<td></td>
<td></td>
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<tr>
<td>WMK Materials, Inc.</td>
<td>Taney</td>
<td>915-003</td>
<td>3/11/2003</td>
<td>444.774.1(2)</td>
<td>The operator has failed to establish erosion and sediment control on areas where damaging erosion and excessive siltation are likely to occur from land affected by surface mining onto adjacent lands.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
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<tr>
<td>WMK Materials, Inc.</td>
<td>Taney</td>
<td>915-004</td>
<td>3/31/2003</td>
<td>444.770</td>
<td>The operator has failed to obtain a Permit To Engage In Surface Mining prior to affecting approximately three acres of land (two acres as Open Pit mining and one acre of In-Stream mining) as part of a surface mining operation. The operator has also created a reclamation liability as a result of the mining practices used at the in-stream operations.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
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<td></td>
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<tr>
<td>WMK Materials, Inc.</td>
<td>Taney</td>
<td>915-005</td>
<td>3/31/2003</td>
<td>444.774.1(2)</td>
<td>The operator has failed to establish erosion and sediment control on areas where damaging erosion and excessive siltation are likely to occur from land affected by surface mining onto adjacent lands.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
<td></td>
<td></td>
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<tr>
<td>Schultz Sand &amp; Gravel</td>
<td>Benton</td>
<td>668-001</td>
<td>4/11/2003</td>
<td>444.770 &amp; 444.772</td>
<td>The operator failed to obtain a Land Reclamation Permit prior to affecting land as part of a surface mining operation. The operator disturbed approximately nine acres that were not permitted. This violation has been resolved.</td>
<td>Sand, Gravel</td>
<td>5/28/2003</td>
<td>$660</td>
<td></td>
</tr>
<tr>
<td>Schultz Sand &amp; Gravel</td>
<td>Benton</td>
<td>668-002</td>
<td>4/11/2003</td>
<td>444.774.1(2)</td>
<td>The operator failed to establish erosion and sediment control on areas where damaging erosion and excessive siltation occurred and were likely to occur from land affected by surface mining onto adjacent lands. This violation has been resolved.</td>
<td>Sand, Gravel</td>
<td>7/14/2003</td>
<td>$1,000</td>
<td></td>
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<tr>
<td>Schultz Sand &amp; Gravel</td>
<td>Benton</td>
<td>2244</td>
<td>4/15/2003</td>
<td>(Issue Date)</td>
<td>The operator discharged water contaminants into Cole Camp Creek, waters of the state, which reduced the quality of such waters below the water quality standards established by the Missouri Clean Water Commission.</td>
<td>Sand, Gravel</td>
<td>4/15/2003</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vogler, Jess</td>
<td>Benton</td>
<td>707-001</td>
<td>4/14/2003</td>
<td>444.770 &amp; 444.772</td>
<td>The operator has failed to obtain a Land Reclamation Permit prior to affecting land as part of a surface mining operation. The operator disturbed approximately one acre that was not permitted. The company has recently been offered a settlement regarding this issue.</td>
<td>Sand, Gravel</td>
<td>4/15/2003</td>
<td>$860</td>
<td></td>
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<tr>
<td>Vogler, Jess</td>
<td>Benton</td>
<td>707-002</td>
<td>4/14/2003</td>
<td>444.774.1(2)</td>
<td>The operator has failed to establish erosion and sediment control on areas where damaging erosion and excessive siltation are likely to occur from land affected by surface mining onto adjacent lands. The company has recently been offered a settlement regarding this issue.</td>
<td>Sand, Gravel</td>
<td></td>
<td>$460</td>
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<tr>
<td>Beaver Creek Aggregate Corp.</td>
<td>Taney</td>
<td>339-002</td>
<td>6/12/2003</td>
<td>444.774.1(10)</td>
<td>The operator has failed to reclaim an open-pit sand and gravel operation (within the floodplain) within the required time frames.</td>
<td>Sand, Gravel</td>
<td>8/25/2003</td>
<td>$710</td>
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<tr>
<td>Partridge Sand and Gravel</td>
<td>Stone</td>
<td>962-001</td>
<td>6/23/2003</td>
<td>444.77</td>
<td>The operator failed to obtain a Permit To Engage In Surface Mining prior to conducting in-stream mining operations. This violation has been resolved.</td>
<td>Sand, Gravel</td>
<td></td>
<td>$660</td>
<td></td>
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<tr>
<td>Cyclott Backhoe Service</td>
<td>Wayne</td>
<td>17814 SE</td>
<td>12/10/2002</td>
<td>644.051.2 &amp; 644.076.1</td>
<td>The operator failed to obtain a permit.</td>
<td>Sand, Gravel</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The operator failed to obtain a permit.</td>
<td>Sand, Gravel</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>
Descriptions of problems that are shown in the following photos

**Widening of creek:**
This leads to decreased water velocity, increased sediment levels, bank instability, increase in water temperature, decrease in water oxygen levels, loss of stream aquatic wildlife habitat, and interference with stream wildlife reproductive cycles.

**Failure to maintain buffer zones:**
This leads to increased bank instability, erosion, and increased sediment levels in the stream.

**Lack of erosion or sedimentation controls:**
This allows for erosion and sedimentation to occur directly into the stream.

**Sediment in creek:**
This leads to changes in water temperature, decrease of oxygen levels in the water, loss of stream aquatic wildlife habitat, and interference with stream wildlife reproductive cycles.

**Channelization:**
This alters the slope of the creek thereby increasing water velocity, increasing erosion and sedimentation, down cutting of the creek, bank instability, possible headcutting upstream and increased deposition of sediment downstream as the stream tries to regain the before channelization gradient.

**Altered creek paths:**
This has the same issues as channelization but typically is not quite as severe.

**Mining below the water level:**
This creates a vertical wall in the creek floor that may lead to head cutting.

**Head cutting:**
This is a condition where the creek floor will have a near vertical drop in elevation (usually from a pit being dug below the water level) that will move up stream as it erodes. Up stream, this leads to the creek down-cutting, the collapse of banks and low water crossings due to the loss of support at their bases, and increased sedimentation in the stream. Down stream, the up stream material that erodes is deposited thereby covering aquatic wildlife habitat, increasing the water temperature, changing the oxygen levels in the water, causing loss of stream aquatic wildlife habitat, interfering with stream aquatic wildlife reproductive cycles, and causing bank instability.

**Destruction of creek banks:**
This leads to loss of property, bank instability, excessive erosion and sedimentation directly into the stream, and destruction of aquatic wildlife habitat.

**Loss of topsoil:**
This prevents areas from having the topsoil replaced thereby not allowing the land to be productive for future use.

**Failure to replace topsoil:**
This prevents the land from obtaining a productive post mining land use.
Failure to grade highwalls:
This may pose a safety concern as well as prevent the area from obtaining a productive post mining land use.

Failure to revegetate:
This prevents the land from obtaining a productive post mining land use and leaves the area susceptible to erosion and off site sedimentation.
Mining into banks and below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Widening of creek and mining below water level. Altering channel flow. No erosion and sediment control in place.

Sediment entering creek.

New split in creek channel.

Normal creek channel.
Sediment leaving site via new split in creek channel.

Existing creek channel.
Creek channel water without sediment.

Sediment in creek channel water.
Mining into banks and below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Sediment entering creek.
Raised road, created across creek, blocked normal creek path and altered creek channel.

Previous creek channel path.

Altered creek channel path.

Mining into banks and below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Raised road, created across creek, blocked normal creek path and altered creek channel.

Material stockpiled in creek channel is a potential sediment source.
Raised road, created across creek, blocked normal creek path and altered creek channel. Mining into banks and below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Widening of creek. Previous creek channel path before altered by raised road.

Altered creek channel path. Sediment deposits in creek.
Failure to reclaim an open pit site.

Area needs the topsoil replaced and be revegetated.

Steep highwalls need to be graded.
Main creek channel. Mining into banks, leading to potential erosion and bank instability. No erosion and sediment control in place.

Mining below water level, leading to potential erosion and bank instability. No buffers left on the bank side of the disturbance. No erosion and sediment control in place.

Creek bank removed and pits dug in their place.

Main creek channel. Mining into banks, leading to potential erosion and bank instability. No erosion and sediment control in place.

Mining below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Topsoil not salvaged
No erosion and sediment control in place.

Open pits dug. Topsoil not salvaged

Raised road, created across creek, blocked normal creek path and altered creek channel.

Creek Widened.

New location of creek channel path after channelization.

Old location of creek channel prior to channelization.

WMK Materials
NOV 915-001, 915-002, & 915-003
01-09-03

WMK Materials
NOV 915-001, & 915-003
03-19-03
No topsoil was salvaged.

Old location of creek channel prior to channelization.

No erosion and sediment control in place.

Creek Widened.

No erosion and sediment control in place.

Old location of creek channel prior to channelization.

New location of creek channel path after channelization.
New location of creek channel path after channelization.

Mining into banks, leading to potential erosion, sedimentation, and bank instability. No erosion and sediment control in place.

No topsoil was salvaged.

Location of creek channel path prior to channelization.

Erosion with sedimentation without controls in place.

No topsoil was salvaged.
New location of creek channel path after channelization.

Erosion with sedimentation without controls in place.

Head cuts formed and moving upstream.

No topsoil was salvaged.
Potential erosion and sedimentation without controls in place.

No topsoil was salvaged.

Mining into banks, leading to potential erosion, sedimentation, and bank instability.

No erosion and sediment control in place.

No topsoil was salvaged.
Potential erosion and sedimentation without controls in place.

No topsoil was salvaged.
Mining into banks, leading to potential erosion and bank instability. No erosion and sediment control in place.

Main creek channel.

Creek bank removed and pits dug in their place.

Mining below water level, leading to potential erosion and bank instability. No erosion and sediment control in place.

Topsoil not salvaged

Open pits dug. Topsoil not salvaged

No erosion and sediment control in place.