DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

JUN - 3

REPLY TO
ATTENTION OF:

Operations Division
Regulatory Branch

Honorable Thomas Petri
House of Representatives
2462 Rayburn House Office Building
Washington, D.C. 20515-4906

Dear Representative Petri:

Thank you for your, and Representative Sensenbrenner's letter of April 25, 2002, regarding a danger zone to be used for exercises by the Wisconsin Air National Guard in Lake Michigan.

The establishment of this danger zone is not the creation of a new entity. This area is already shown on current navigation charts as a "Military Exercise Area". The procedure is needed to provide a citable numerical designation as a danger zone that then allows the Federal government to give maritime interests the same safety notification that is currently given to aviation interests. This military exercise area has been in existence and in use by various military units since World War II and is shown on aeronautical charts. During that time, commercial and recreational fishermen have used the area with virtually no inconvenience. Please rest assured that neither the Wisconsin Air Guard nor the U.S. Army Corps of Engineers wishes to disrupt any commercial or recreational activities on Lake Michigan.

Corps authority for danger zones is derived from Section 7 of the Rivers and Harbors Act of 1917. Our role is to consider requests from military bases to establish danger zones in navigable waters and evaluate the need for those danger zones. If establishment is warranted, we provide notice to the public with opportunity to comment on the proposal. The purpose is to identify and address all relevant issues and concerns before a decision is made as to the final disposition of the proposed danger zone. In this case, our St. Paul District received many comments, in part, due to unfavorable reports in the press.

The District received a written request, dated 3 July 2001, from Lieutenant Colonel Gunther Neumann of the Volk Field Combat Readiness Training Center. LTC Neumann requested that the Corps establish the danger zone so it could be shown on navigation charts, just as it is shown on current aeronautical charts.

Publication of the proposed danger zone in the Federal Register, on the St. Paul District web page, and in the District's local public notice created confusion among mariners who were unaware of the existing training area. The wording in the public notice also indicated that

boating activities would be greatly limited. This was unfortunate; restrictions on boating are expected to occur rarely and only when there is a need to protect the public. The St. Paul District normally attempts to mail public notices for proposed actions to all appropriate interested entities but it is impossible to insure all interested persons learn of the action. However, in an attempt to do so, the District did extend the comment period because of the level of interest.

The District is preparing a revised proposed regulation to more accurately reflect the intended use of this danger zone and to insure that current concerns are addressed. It will be republished in the Federal Register as a proposed regulation, and the public will be given another opportunity to comment. A new District public notice announcing the proposal will be sent to all organizations and individuals who have commented on the proposal. The comment period will remain open for thirty days after the publication date.

If you have further questions, please have your staff contact Mr. Frank Torbett, Regulatory staff at (202) 761-4618. Our St. Paul District will keep your staff informed of their actions and progress regarding the development of the revised proposal. Enclosed is the draft Environmental Assessment you requested.

Sincerely,

Thomas F. Caver Jr., P.E
Deputy Director of Civil Works

Enclosure