



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

October 31, 2023

Regulatory Division

SUBJECT: Project Number SWF-2023-00445, Tierra Seca BESS, LLC Battery Storage Site,
Del Rio, Texas



This letter is in regard to information received October 10, 2023, concerning the proposal for the construction of a battery storage facility located in the City of Del Rio, Val Verde, Texas. This project has been assigned Project Number SWF-2023-00445. Please include this number in all future correspondence concerning this project.

The U. S. Army Corps of Engineers (USACE) regulates the discharge of dredge and fill material into waters of the United States, including wetlands, under Section 404 of the Clean Water Act. USACE also has responsibility under Section 10 of the Rivers and Harbors Act of 1899 to regulate any work in, or affecting, navigable waters of the United States.

Based on the information concerning the tract of land that is to contain the proposed development as shown on the map entitled, *Figure 1 Final Aquatic Resources Delineation Map, Tierra Seca BESS LLC by Kimley Horn* consisting of 1 page and dated February 16, 2023, there are no waters of the United States contained on the tract of land. This determination is based on an Approved Jurisdictional Determination rendered under the pre-2015 regime as informed by *Sackett v. EPA*. The basis of this AJD is enclosed. This AJD is valid for a period of no more than five years from the date of this letter unless new information warrants revision of the delineation and determination before the expiration date.

Department of the Army authorization would be required for the discharge of dredged or fill material into any areas identified as waters of the United States. If you anticipate a discharge, please provide us with a detailed description of the proposed project, a suitable map of the proposed project area showing the location of proposed discharges, the type and amount of material (temporary or permanent), if any, to be discharged, and plan and cross-section views of the proposed project. Please note that it is unlawful to start work without a Department of the Army permit, if one is required.

The Applicant may accept or appeal this AJD or provide new information in accordance with the enclosed Notification of Administration Appeal Options and Process and Request for Appeal (NAAOP-RFA). If the Applicant elects to appeal this approved JD, the Applicant must complete Section II, (Request for Appeal or Objections to an Initial Proffered Permit), of the enclosure and return it to the Division Engineer, ATTN: CESWD-PD-O Appeals Review Officer, U.S. Army Corps of Engineers, 1100 Commerce Street, Dallas, Suite 831, Texas 75242-0216 within 60 days of the date of this notice. Failure to notify the USACE within 60 days of the date of this notice means you accept the approved JD in its entirety and waive all rights to appeal the approved JD.

The proposed development shown on plans entitled *Tierra Seca Bess LLC, Old Hamilton Road, Del Rio TX E-101*, dated June 16, 2023, and consisting of 1 page, does not require a permit under the provisions of Section 404 of the Clean Water Act since no discharges of dredge or fill material into waters of the US are proposed. This determination was informed by the AJD addressed in this correspondence.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please refer to our website at <http://www.swf.usace.army.mil/Missions/Regulatory> or contact [REDACTED] at the address above, by telephone [REDACTED], or by email [REDACTED] and refer to your assigned project number.

Please help the regulatory program improve its service by completing the survey on the following website: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

[REDACTED]

For: Brandon W. Mobley
Chief, Regulatory Division

Enclosures

Approved JD Appeal Form




Memorandum for Record

Development Plan entitled *Tierra Seca Bess LLC, Old Hamilton Road, Del Rio TX E-101 Figure 1 Final Aquatic Resources Delineation Map, Tierra Seca BESS LLC*

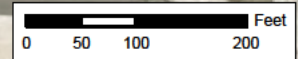
Copy furnished to:

Project Name: Tierra Seca BESS LLC
Location: Val Verde County, Texas
Consultant Personnel: Sierra Novosadova, PWS and Bethany Deitch
Date of Site Visit: February 9, 2023

Path: K:\DAL GIS\DAL ENV GIS\project GIS\040423035 - Tierra Seca BESS LLC - Val Verde County - COR - Calford Hollow\Tierra Seca BESS.aprx

- Legend**
-  Tierra Seca BESS LLC Study Area, ~12.9 acres
 -  Roadside Ditch, ~821 linear feet
 -  Culvert

D1, ~821 LF



FIGURE

1

DATE: 10/25/2023
DRAWN: BLD
CHECKED: SDN
KHA NO.: 064523035

Final Aquatic Resources
Delineation Map
Source: Nearmap November 2021

Tierra Seca BESS LLC
Val Verde County, Texas



Kimley»Horn

This product is for informational purposes only and may not have been prepared for, or be suitable for, legal, engineering, or survey purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.