



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

October 17, 2023

Regulatory Division

SUBJECT: Project Number #SWF-2022-00325; Desert Willow Battery Storage Site Dry Land
AJD Request #2



This letter is in regard to information received October 3, 2023, concerning the jurisdictional status of water features on a 6-acre parcel of land located in Midlothian, Ellis County, Texas. This action has been assigned the project number identified in the Subject line above. Please include this number in all future correspondence concerning this project.

A portion of the 6-acre assessment area includes a 1-acre tract that was the subject of a dry land AJD that was issued August 16, 2023. Based on this AJD, that previous AJD is hereby rescinded.

Under Section 404 of the Clean Water Act (CWA), the U.S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into waters of the United States, including wetlands. 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 and data provided and additional data and analysis conducted by the Corps, it has been determined that there are no waters of the U.S. as shown on the plan entitled Figure 2 Dry Land AJD Review Area Desert Willow Energy Storage, LLC, dated "revised 10/03/2023," consisting of 1 sheet as defined in the CWA under the pre-2015 rule regime in light of the Supreme Court Sackett ruling. 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.

You 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 you elect to appeal this AJD, you 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 Suite 831, Dallas, 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.

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 or at [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]

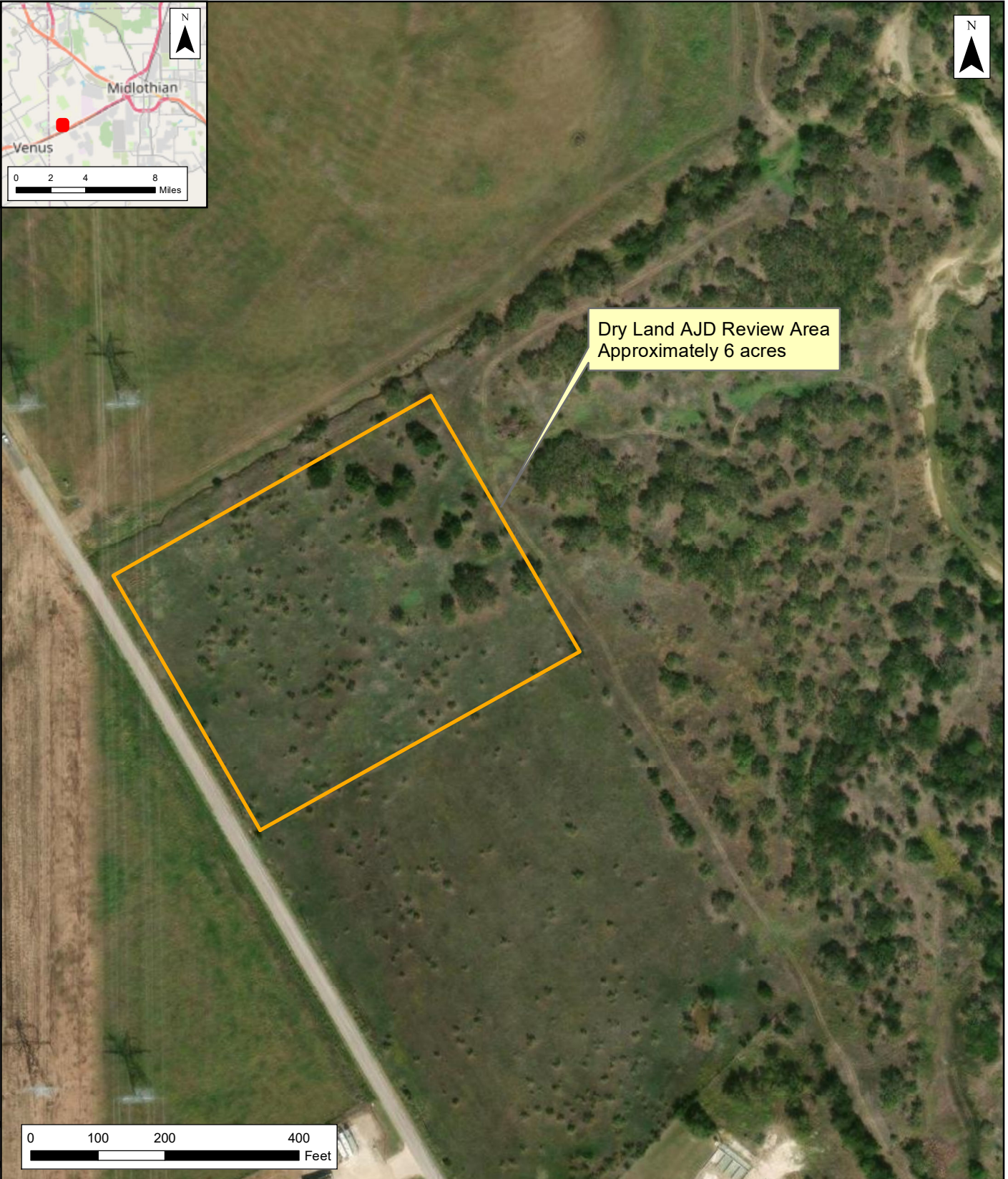
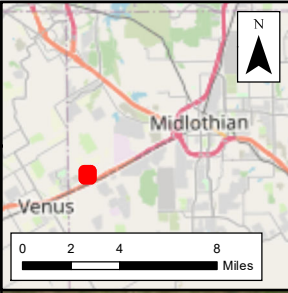
Chief, Regulatory Division

Enclosure

Copies furnished (electronically):

[REDACTED]

DRAWN BY: GIS



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Legend

 Dry Land AJD Review Area

Figure 2
Dry Land AJD Review Area
 Desert Willow Energy Storage, LLC
 esVolta
 Ellis County, Texas

