



DEPARTMENT OF THE ARMY
HONOLULU DISTRICT, U.S. ARMY CORPS OF ENGINEERS
FORT SHAFTER, HAWAII 96858-5440

October 10, 2023

SUBJECT: Approved Jurisdictional Determination and Determination of No Permit Required, [REDACTED] Wind Farm & Battery Energy Storage Facility, Geotechnical Testing, A'oloau, Island of Tutuila, American Samoa, DA File No. POH-2021-00221

[REDACTED]

Dear [REDACTED]

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Branch has received your request for a jurisdictional determination and clarification whether a Department of the Army (DA) permit is required for some pre-development activities for a proposed Wind Farm & Battery Energy Storage Facility located near A'oloau, Island of Tutuila, American Samoa (-14.31391, -170.78084). Your request has been assigned DA file POH-2021-00221. Please reference this number in all future correspondence with our office relating to this action.

We have reviewed your submittal pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; "Section 404") and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403; "Section 10"). Section 404 requires DA authorization for the discharge (placement) of dredged and/or fill material into waters of the U.S., including wetlands. Section 10 requires DA authorization for the placement of structures or work in, under or over navigable waters of the U.S. and/or other work affecting the course, location, condition or navigable capacity of such waters. To determine if a DA permit is required for a proposed action, the Corps must first determine whether the proposed project is located within the Corps' geographic jurisdiction (i.e., whether the activity is located within a water of the U.S.). If the activity is within a water of the U.S., the Corps must then determine whether the proposed activity is regulated under Section 10 and/or Section 404 or if the activity is exempt.

Based on our review of the information you provided, we have determined the three geotechnical investigation sites do not contain waters of the United States (U.S.) as defined by 33 CFR Part 328 or navigable waters of the U.S. as defined by 33 CFR Part 329. The three sites are not within Corps of Engineers (Corps) jurisdiction. Therefore, a DA permit is not required. A copy of the Approved Jurisdictional Determination form will be made available under the above file number at the following address:
www.poh.usace.army.mil/Missions/Regulatory/JurisdictionalDeterminations.

This AJD is valid for a period of five (5) years from the date of the AJD form, unless new information supporting a revision is provided to us before the expiration date.

Enclosed is a Notification of Administrative Appeal Options and Process and Request for Appeal form regarding this approved jurisdictional determination (see section labeled "Approved Jurisdictional Determination").

Additionally, based on our review of the information you provided, we have determined that the access routes to the three geotechnical investigation sites do not contain navigable waters of the U.S. as defined by 33 CFR Part 329 (Section 10). However, the access routes may contain waters of the U.S. as defined by 33 CFR Part 328 (Section 404). We have determined that the proposed activities to access and supply the sites described in your request would not involve a discharge of dredged or fill material within the Corps' limits of jurisdiction. Accordingly, the access route activities would not be regulated by the Corps.

While a DA permit is not required for your proposed project, you are responsible for obtaining all other applicable Federal, state, or local authorizations required by law. Be advised, a DA permit may be required if you alter the method, scope, or location of your proposed work. You should contact our office if you are considering modifying your project.

Thank you for your cooperation with the Honolulu District Regulatory Program. If you have any questions related to this determination, please contact me at [REDACTED]. For additional information about our Regulatory Program, visit: <http://www.poh.usace.army.mil/Missions/Regulatory.aspx>.

Sincerely,

[REDACTED]

cc:

[REDACTED]

FIGURE EXCERPTED FROM JD REQUEST MATERIALS

AJD (Upland) Pertains to Sites B01, B02, B03, and LiDAR yard

No JD for access routes (existing, new, or alternate); proposed activity along access routes not regulated

American Samoa Wind and Battery Storage Project

Figure 1
Water Resources Mapped by
NWI, NHD, and ASDOC

AMERICAN SAMOA

- LiDAR Yard
- Boring Location
- Access Trail (Existing)
- Boring Location Access Trail (New)
- Boring Location Access Trail (New, Alternative)
- Driveway to Access Trail
- Local Roads
- Streams (ASDOC)
- Stream/River (NHD)
- Riverine (NWI)



Reference Map



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1:6,000

WGS 1984 UTM Zone 2S

0 0.25 0.5 1 Kilometers

NOT FOR CONSTRUCTION