



Colorado River Basin Regional Water Quality Control Board

Certified Mail: **7021 1970 0002 0497 7763**

July 22, 2024

Emily Naidoo
NextEra Energy Resources
700 Universe Boulevard (JES/JB)
Juno Beach, FL 33408
emily.naidoo@nexteraenergy.com

SUBJECT: NOTICE OF APPLICABILITY FOR COVERAGE UNDER ORDER NO. 2004-0004-DWQ, STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS TO BE OUTSIDE OF FEDERAL JURISDICTION, DESERT PEAK ENERGY CENTER II PROJECT (WDID NO. 7A333286001), RIVERSIDE COUNTY

Dear Ms. Naidoo,

On April 11, 2024, NextEra Energy Resource (NextEra or Discharger) submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board (State Water Board) Order No. 2004-0004-DWQ, *Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction*. The California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board) has reviewed your enrollment materials and finds that the dredge/fill discharges associated with the Desert Peak Energy Center II (Project) meet the requirements for enrollment. You are hereby enrolled under Order No. 2004-0004-DWQ and may proceed with the Project in accordance with the Order.

A copy of [Order 2004-0004-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf) is attached and it can be found on the State Water Board's Adopted Orders webpage.

Please familiarize yourself with the requirements of Order No. 2004-0004-DWQ. You are responsible for complying with all applicable Order requirements. Failure to comply with Order No. 2004-0004-DWQ constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

PETER SATIN, CHAIR | PAULA RASMUSSEN, EXECUTIVE OFFICER

PROJECT DESCRIPTION, IMPACTS, AND MITIGATION

NextEra is constructing a 700-Megawatt (MW) battery energy storage system (BESS) facility with associated on-site substation, inverters, fencing, roads, and supervisory control and data acquisition system. The Project is being developed in two phases spanning two project sites. The two sites are separated by a roadway and total approximately 357 acres. Phase 1 has been constructed and occupies 35 acres of a 189-acre Project site (Phase 1 Site.) Phase 2 is being constructed after the completion of Phase 1 and will be built on approximately 35 acres of a 168-acre site (Phase 2 Site), located adjacent to the Phase 1 Site. When completed the facility will consist of approximately 728 battery containers with Phase 1 having a storage capacity of 300 MW and Phase 2 having a storage capacity of 400 MW.

Battery arrays are being constructed in eight development areas and include battery cabinets and inverter equipment approximately 12-15 feet above grade. Development site slopes will be benched to address the sloping elevation. The battery enclosures and inverters will be interconnected by underground cabling and overhead “gen-tie” infrastructure (lines mounted on approximately 160 galvanized steel poles at approximately 250-600 feet spacing, and up to 160 feet in height). The gen-tie overhead lines will connect the storage system substation to the SCE Devers Substation located just north of the Phase 1 Site.

The Project will result in 0.19 acres and 229 linear feet of temporary impacts to waters of the state not under the jurisdiction of the United States Army Corps of Engineers (USACE). No permanent impacts were identified. Once the construction is complete, those temporarily impacted areas will be returned to pre-Project conditions.

PROJECT LOCATION

The Project is located near the intersection of Dillon Road and Oasis Avenue, 2 miles west of the community of North Palm Springs, Riverside County, California. The Project area is within Sections 4 and 9, Township 3 south, Range 4 east, of the USGS Desert Hot Springs quad.

The latitude and longitude of the impacted area is listed below. Maps showing the Project location are found in Attachment A of this Order.

Site	Latitude	Longitude
1	33.9226° N	-116.5748° W

APPLICATION FEE RECEIVED

Payment for the application fee in the amount of \$ 2,985 was received on February 5, 2024. A check in the amount of \$2,071 was received on June 17, 2024, for payment of the Project fee. The fee amounts were determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and were calculated as a Category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On May 5, 2022, the City of Palm Springs, acting as “lead agency” for the Project under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), adopted an initial study/mitigated negative declaration (IS/MND) for the Project (State Clearinghouse [SCH] No. 2022050101) and filed a Notice of Determination (NOD) with the SCH on June 23, 2022. As a “responsible agency”, the Colorado River Basin Water Board has reviewed and considered the environmental documents prepared by the City of Palm Springs and finds that they address the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).)

Pursuant to CEQA, the Colorado River Basin Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment B.

AVOIDANCE AND MINIMIZATION MEASURES

The Discharger must implement the measures identified in the Restoration Plan submitted with the Project application, as well as comply with all applicable requirements in Order No. 2004-0004-DWQ.

TERMINATION OF COVERAGE

Upon completion of the Project, NextEra shall submit a complete Notice of Termination (NOT) requesting to be disenrolled under Order No. 2004-0004-DWQ. Attachment 2 to Order No. 2004-0004-DWQ contains the NOT form.

If you have questions concerning this matter, please contact Logan Raub, 401 Water Quality Certification Program Manager, at (760) 776-8966 or at Logan.Raub@waterboards.ca.gov.

Sincerely,

Original Signed By _____

Paula Rasmussen
Executive Officer
Colorado River Basin
Regional Water Quality Control Board

Enclosures: 1) Attachment A Project Maps
2) Attachment B CEQA Findings
3) Order No. 2004-0004-DWQ

LR/

File: WDID: 7A333286001, RM: 456575, Place ID: 894438, Desert Peak Energy Center II
Project, Order 2004-0004-DWQ

cc: [via email only] (with enclosures):

Megan Enright, Dudek: menright@dudek.com

Riverside County Department of Environmental Health: mmistica@rivco.org

Riverside County Planning Department: planning@rivco.org

Riverside County Flood Control and Water Conservation District: romustaf@rivco.org

U.S. Bureau of Land Management: BLM_CA_Web_PS@blm.gov

USEPA Region IX 401 Program: R9cwa401@epa.gov

U.S. Fish and Wildlife Service: felicia_serchia@fws.gov

CA Department of Fish and Wildlife Region 6: Heather.Brashear@wildlife.ca.gov

DDW, State Water Resources Control Board: Chun.Huang@waterboards.ca.gov

CA Department of Toxic Substances: Katie.Butler@dtsc.ca.gov

CA Department of Transportation – District 8: john.chisholm@dot.ca.gov

CA Department of Water Resources: bob.pierotti@water.ca.gov

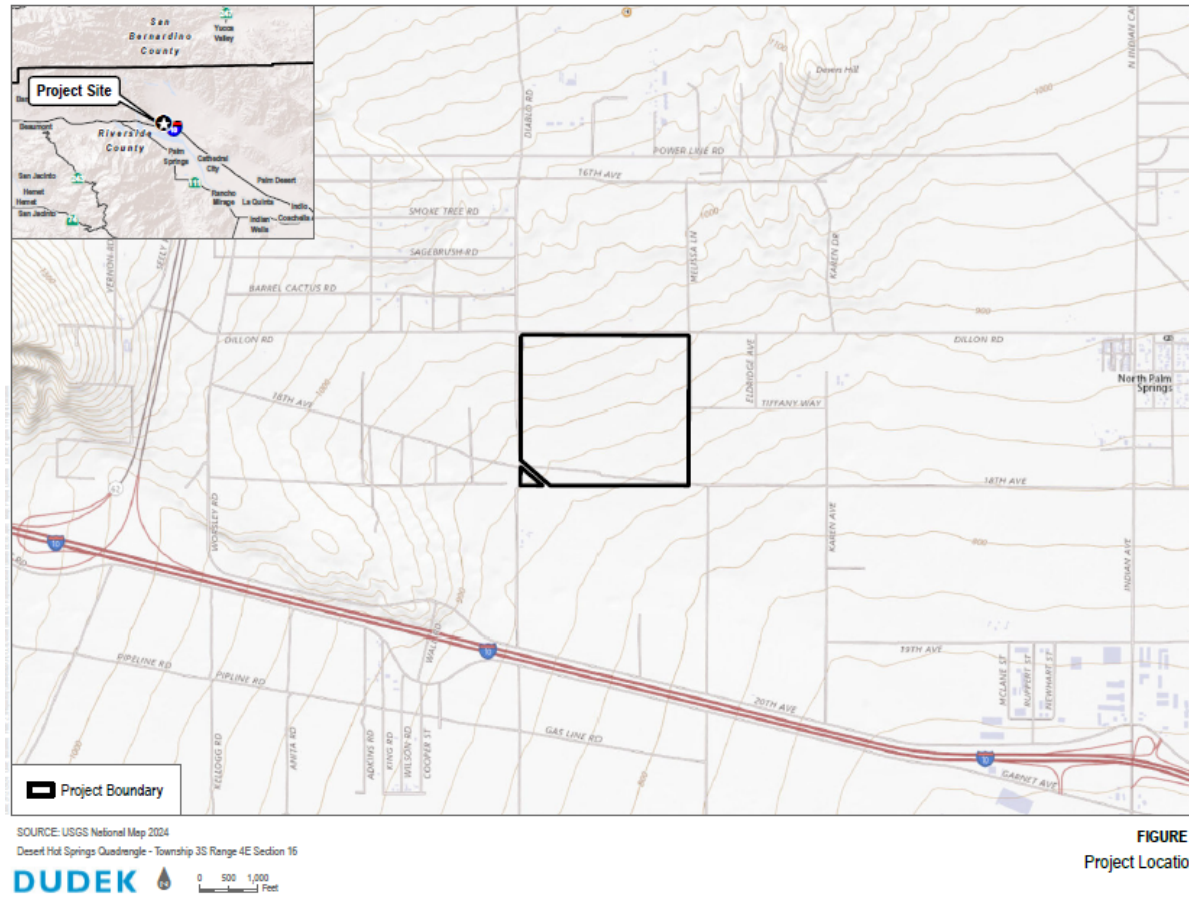
401 Program, DWQ, State Water Resources Control Board:

StateBoard401@waterboards.ca.gov

CA Department of Resources Recycling & Recovery: WPCMDivision@Calrecycle.ca.gov

Coachella Valley Association of Governments: cvag@cvag.org

Attachment A
Project Maps



(NextEra, 2024)¹

¹NextEra Energy Resources, April 2024. Figures taken from materials submitted with Notice of Intent (NOI) for the Desert Peak Energy Center II Project.



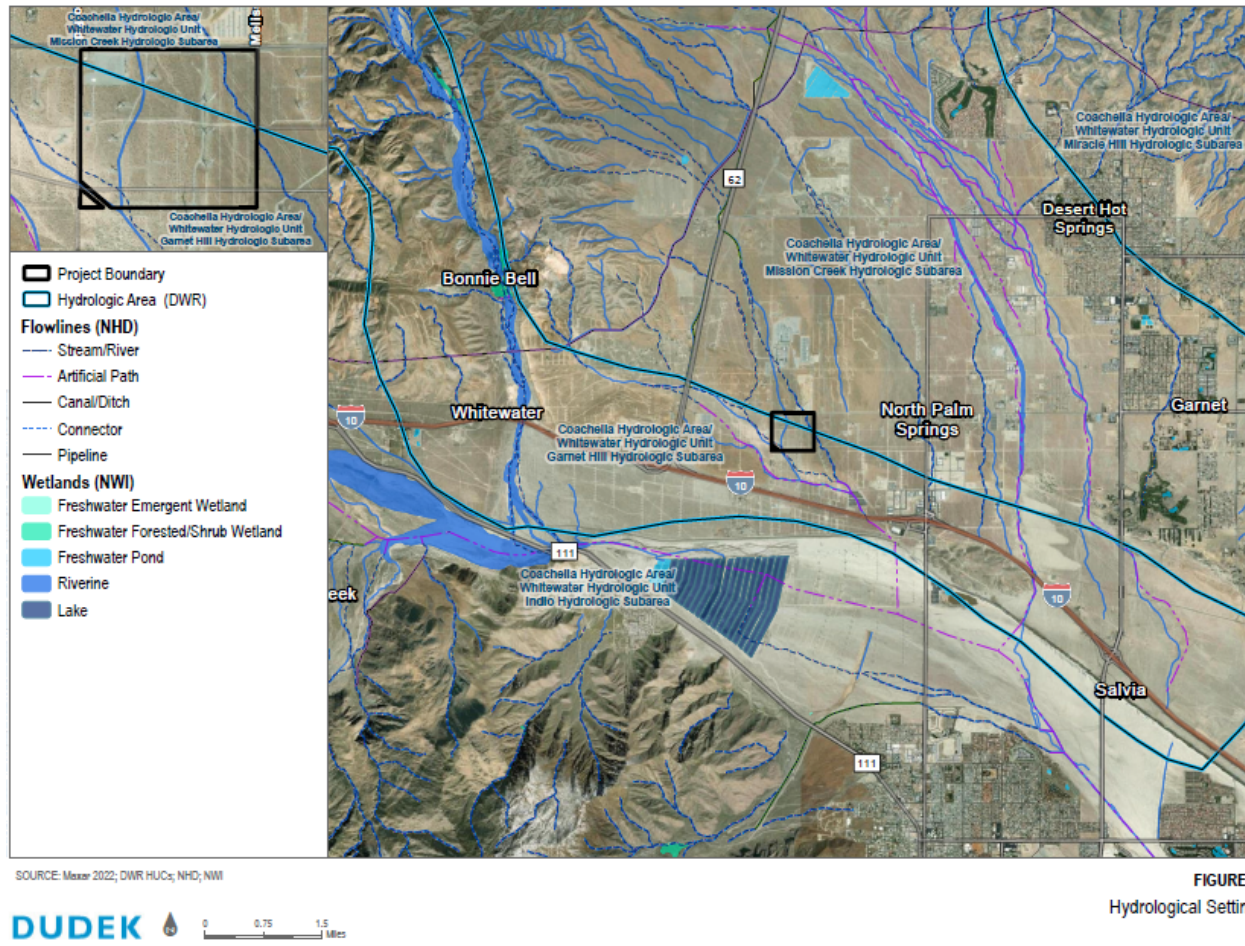
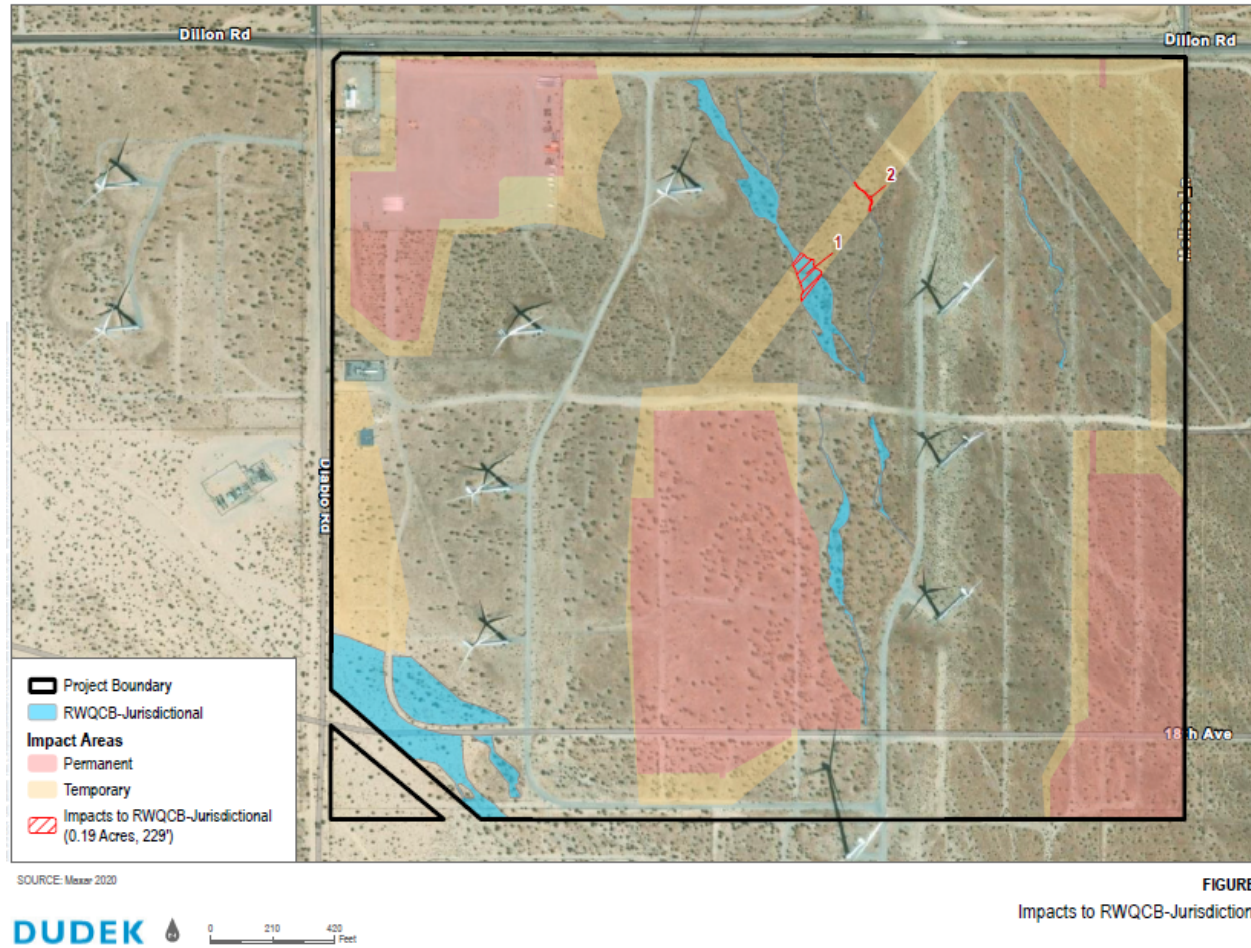




FIGURE 4
RWQCB-Jurisdictional Areas



Attachment B

CEQA Findings

A. Introduction

On May 5, 2022, the City of Palm Springs as lead agency adopted an initial study/mitigated negative declaration (IS/MND) for the Project (State Clearinghouse [SCH] No. 2022050101) and filed a Notice of Determination (NOD) with the SCH on June 23, 2022.

The Colorado River Basin Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that the City of Palm Springs' environmental documents comport with the requirements of CEQA and are valid (Public Resources Code, §§ 21080.1(a), 21167.2). The Colorado River Basin Water Board has reviewed and considered the environmental documents and finds that the environmental documents prepared by the City of Palm Springs address the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental documents include the mitigation measures that have been adopted for the Project to reduce potential temporary impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

B. Findings

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the approved IS/MND, Avoidance, Minimization, and/or Mitigation Measures, and other supplemental documentation. The approved IS/MND is incorporated herein by reference. An electronic copy of the NOD and IS/MND are available at the SCH website: [Desert Peak Energy Center Case No. 5.1543-CUP](#)

Copies of the NOD or IS/MND maybe be obtained by contacting the City of Palm Springs Office at 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262. Requirements under the purview of the Colorado River Basin Water Board in the IS/MND are incorporated herein by reference. The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings and Determination

The IS/MND describes the potential significant environmental effects to water resources that were mitigated. Having considered the whole of the record, the Colorado River Basin Water Board has determined that there is no substantial evidence that the Project or any of its aspects could result in significant adverse impacts to water resources, when implemented in accordance with the mitigation measures required in the IS/MND and the conditions in this Order. (Cal. Code Regs., tit. 14, § 15096, subd. (h)).

NextEra Energy Resources
Desert Peak Energy
Center II Project

- 11 -

WDID: 7A333286001
Reg. Meas. ID: 456575
Place ID: 894438

Order No. 2004-0004-DWQ

A copy of Order No. 2004-0004-DWQ can be found at:

https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html