



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ARIZONA-NEVADA AREA OFFICE
3636 NORTH CENTRAL AVENUE, SUITE 760
PHOENIX, ARIZONA 85012-1936

REPLY TO

October 23, 2000

*Received
10-24-00*

Office of the Chief
Regulatory Branch

Mr. Harlyn Griffiths
Tierra Rica Development, Inc.
PO Box 11313
Casa Grande, Arizona 85230

File Number: 2000-01207-SDM

Dear Mr. Griffiths:

Reference is made to the jurisdictional limits of Section 404 of the Clean Water Act for the unnamed washes at the proposed development known as Signal Peak, at (Sections 29 & 30, T5S, R7E), Pinal County, Arizona.

The enclosed aerial photograph or map delineates the waters of the United States, including wetlands, regulated by Section 404 of the Clean Water Act. This approved jurisdictional determination will remain in effect for five years from the date of this letter unless an unusual flood event occurs. After this five-year period or after an unusual flood event alters stream conditions, the Corps of Engineers reserves the authority to retain the original jurisdictional limits or to establish new jurisdictional limits as conditions warrant.

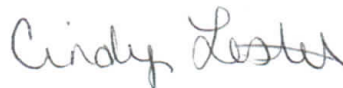
Each water of the United States herein delineated is an interstate water, a water that is tributary to an interstate water, or an isolated water. Each delineated water is subject to interstate and/or foreign commerce. The Section 404 jurisdictional limit for a water of the United States is defined at 33 CFR Part 328. The jurisdictional limit for a non-tidal water of the United States is determined by the jurisdictional wetland boundary and/or the ordinary high water mark. The jurisdictional limit of a wetland is determined in accordance with the Corps of Engineers 1987 Wetlands Delineation Manual. Otherwise, presence of the indicators stated in the definition of ordinary high mark (33CFR 328.3(e)) are used to establish the jurisdictional limit of a water of the United States. The basis of this jurisdictional determination is shown on the enclosed checklist.

Any discharge of dredged or fill material within the designated jurisdictional area requires a Section 404 permit from the Corps of Engineers. The Corps of Engineers emphasizes avoidance of the delineated jurisdictional area. Please review this delineation and evaluate your proposed activity to ensure that avoidance of the jurisdictional area is given full consideration in your design. If all discharges of dredged or fill material occur outside the designated jurisdictional area, no Section 404 permit is required. If avoidance is not practicable, please reference File Number 2000-01207-SDM when submitting your Section 404 permit application to the Corps of Engineers. Please be advised that your application needs to substantiate that avoidance of designated jurisdictional areas is not practicable and substantiate that impacts to waters of the United States have been minimized.

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process for jurisdictional determinations which is fully described at 33 CFR Part 331. The Administrative Appeal Process for jurisdictional determinations is diagrammed on the enclosed Appendix C. If you decide not to accept this approved jurisdictional determination and wish to provide new information please send the information to this office. If you do not supply additional information you may appeal this approved jurisdictional determination by completing the attached "Notification of Administrative Appeal Options and Process and Request for Appeal" form and submitting it directly to the Appeal Review Officer at the address provided on the form.

The receipt of your letter is appreciated. If you have questions, please contact Sallie D. McGuire at (602) 640-5385 x 221.

Sincerely,



Cindy Lester
Chief, Arizona Section
Regulatory Branch

Enclosure

Copies Furnished:
(With Enclosure)

S. Daniel Coen
Coen Engineering
212 W. Superstition Blvd
Suite 105
Apache Junction, Arizona 85220

Basis of Jurisdictional Determination

Date of field visit: May 11, 2000

Indicators observed during site visit:

- ☒ Destruction of terrestrial vegetation
- ☒ Changes in soil characteristics (e.g. sandy channel bottoms)
- ☒ Impression of water line on bank
- ☐ Shelving or cut banks
- ☒ Presence of litter/debris
- ☒ Sediment deposits
- ☐ Water stains
- ☐ Exposed roots
- ☐ Presence of manmade drainage features/scour protection
- ☐ Other

Supporting documentation:

- ☒ Agent's proposed jurisdictional determination
- ☐ Wetland delineation following 1987 Corps Wetland Delineation Manual
- ☒ Aerial photography interpretation
- ☐ Ground photographs/videotape of site
- ☒ Topographic map interpretation
- ☐ Review of historical records and/or aerial photography
- ☐ Comparison of previously accepted delineations of the area
- ☒ USGS map(s)
- ☐ Flow data (drainage reports, modeled flows, USGS gage data, or other sources)
- ☐ Floodplain maps
- ☐ Soil Maps
- ☐ Environmental Assessment/ Environmental Impact Statement
- ☐ National Wetland Inventory Maps
- ☐ Staff knowledge of precipitation and fluvial dynamics of the region
- ☐ Biological resource reports
- ☐ Other

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTION AND PROCESS AND REQUEST FOR APPEAL

Applicant: Tierra Rica Development, Inc.	File Number: 2000-01207-SDM	Date: October 23, 2000
Attached is:		See Section below
☐ INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
☐ PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
☐ PERMIT DENIAL	C	
☒ APPROVED JURISDICTIONAL DETERMINATION	D	
☐ PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Cindy Lester, Chief, Arizona Section
U.S. Army Corps of Engineers, CESPL-CO-RA
3636 North Central Avenue, Suite 760
Phoenix, AZ 85012-1936

Tel. (602) 640-5385x222 FAX (602) 640-2020

If you only have questions regarding the appeal process you may also contact:

Douglas R. Pomeroy, Appeal Review Officer
U.S. Army Corps of Engineers, CESPD-ET-CO
333 Market Street
San Francisco, CA 94015-2195

Tel. (415) 977-8035 FAX (415) 977-8047

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Date:

Telephone number:

Signature of appellant or agent.

**Administrative Appeal Process for
Approved Jurisdictional Determinations
APPENDIX C**

