

Testimony regarding BESS Related Bills in the 89th Texas Legislature

Honorable Members of the **House State Affairs Committee**,

My name is Rich Paces, Kerr County Commissioner, Precinct 2, a volunteer firefighter, the county's liaison to the Kerr Area Rural Fire Association, and President of the Hill Country Energy Sub-Regional Planning Commission, a chapter 391 commission formed between Kerr and Kendall Counties for the purpose of opposing BESS development. I urge you all to support Rep. Wes Virdell's Bill **1378** which requires a 500-yard setback from adjacent property lines, but I also urge you to support House Bills **941, 1343, 3017, 4363** and **5454**, because quite frankly, not one of these proposed bills does nearly enough by itself to protect the people of Texas, our precious groundwater, and our critical grid infrastructure.

Since 2006, nearly \$20 billion has been funneled into our state to support renewable energy and Texas is now overly reliant on unreliable wind and solar energy and ERCOT is trying to stabilize our grid by installing over 900 federally subsidized, high-risk Battery Energy Storage Systems (BESS) across Texas.

Lithium battery facilities have a history of explosions and thermal runaway fires, which are extremely difficult to extinguish. Our volunteer firefighters lack sufficient foam and water to extinguish a BESS fire. State Fire Marshals recently gave a presentation to our commissioners' court and stated "when BESS malfunctions occur, data shows they happen in less than 2% of the installations." However, with ERCOT planning over 900 facilities across Texas, 2% would be **18** BESS fires. The recent Moss Landing battery storage facility in Monterey County, California, was a complete disaster that resulted in the evacuation of 1,500 people, a huge plume of toxic smoke that lasted nearly a week and released carbon monoxide, methane, hydrogen fluoride, hydrogen cyanide and formaldehyde which contaminated the soil and water in the surrounding area. One fire like that in Texas would be too many!

BESS also poses a cybersecurity risk because they are unmanned and controlled remotely via the internet. As a result, our DOD has removed BESS from all military installations.

Predictably, BESS developers target the unincorporated areas of small counties where there are no regulations and no permits required.

With BESS facilities moving forward in Kerr and Kendall Counties, citizens are concerned. These concerns are heightened in our Priority Groundwater Management Area where we have frequent and extended severe droughts. The impact of a BESS fire and the toxic gases released would be catastrophic as the contaminants find their way into our soil, creeks, rivers and groundwater – just as they have in Monterey County, CA.

We have strong regulations for on-site sewage disposal systems under Chapter 366 of the Health and Safety Code. In developing this Code, legislators understood the need to give local government the authority to adopt more stringent rules for their on-site sewage facility orders. This is because in some areas surface water quickly finds its way into shallow groundwater aquifers like the Edwards and Trinity Aquifers in central Texas and if not treated properly, sewage effluents would contaminate our precious groundwater. So, we go to great lengths to impose very clear regulations on the design, installation and operation of septic systems, yet these high risk and potentially hazardous BESS facilities are virtually unregulated!

In February 2025, the Hill Country Energy Sub-Regional Planning Commission was formed between Kerr and Kendall Counties for the purpose of opposing BESS development. Under Texas Local Government Code, Chapter 391, all state agencies are required to “coordinate planning with commissions as equals to ensure effective and orderly implementation of state programs at the regional level”.

We have coordinated with TCEQ and opened their eyes to our concerns regarding BESS facilities. We also need to make PUCT, ERCOT and LCRA fully aware of the potentially catastrophic impacts of BESS in our territory. However, these agencies are trying to avoid a public coordination meeting and have all told us that they do not play a role in deciding the type and location of power generators and that they are obligated to connect generators to the grid “without discrimination”. Hence, it is not clear just who is responsible for permitting, approving and funding these BESS facilities.

Texas desperately needs much greater regulation on the location and type of energy development that is connected to our grid. So in closing, I urge you all to strongly support representative Wes Virdell’s Bill **1378** and House Bills **941, 1343, 3017, 4363** and **5454**, But the best solution would be for state and US legislators to remove the economic distortion created by federal subsidies and tax incentives available to “green energy” developers. Rep. Money’s HB 3017 attempts to do just that. Thank you.

For more information on our sub-regional planning commission, go to www.HCESRPC.com.