



## PERMITTING COUNCIL

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### **Executive Director Determination on Request to Extend FAST-41 Final Completion Date by More Than 30 Days**

**April 14, 2023**

#### **Boardman to Hemingway Transmission Line; Use Authorization (DOI-BOR) & Section 404 Clean Water Act (USACE)**

##### **I. Summary**

The Boardman to Hemingway Transmission Line (B2H Project), sponsored by Idaho Power Company (Project Sponsor), is a “covered project” under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), 42 U.S.C. § 4370m *et seq.* The Department of the Interior, Bureau of Land Management (BLM) has principal responsibility for an environmental review for the Project under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 *et seq.*, which makes BLM the lead agency for both NEPA and FAST-41.

BLM released a final environmental impact statement pursuant to NEPA on November 25, 2016, and issued a Record of Decision granting a right-of-way to the Project Sponsor for the construction, operation, and maintenance of the B2H Project on November 17, 2017. The B2H Project has authorizations pending with two Federal agencies: a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (USACE), and a use authorization from the Department of the Interior, Bureau of Reclamation (BOR).

On March 30, 2023, BLM submitted a request to the Executive Director of the Federal Permitting Improvement Steering Council to modify the B2H Project’s permitting timetable on the Federal Permitting Dashboard. BLM requests an extension of the final completion dates for the USACE Section 404 permit decision from May 31, 2023, to June 28, 2024, and for the BOR use authorization decision from May 31, 2023, to March 31, 2024.

This is BLM’s second request for extensions of these final completion dates, and the reason for the second request mirrors the first: the Project Sponsor has been unable to submit complete applications for these two Federal authorizations.<sup>1</sup> BLM therefore requests an extension of the final completion dates to allow the Federal agencies sufficient time to review the

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<sup>1</sup> The Executive Director’s Determination on the Record on BLM’s first extension request is available here: <https://www.permits.performance.gov/fpisc-content/boardman-hemingway-transmission-line-project-ed-determination-use-authorization-doi>

Project Sponsor’s applications once submitted. For the following reasons, the extension request is **GRANTED**, and the B2H Project permitting timetable will be revised accordingly.

## II. Legal Standard

Pursuant to 42 U.S.C. §§ 4370m-2(c)(2)(D)(i)(II) & (IV), a lead agency may extend a final completion date by more than 30 days beyond the original final completion date only after consulting with the project sponsor and obtaining Executive Director approval. After receiving an extension request, the Executive Director must consult with the project sponsor and make a determination on the record whether to grant the requested date change. The Executive Director’s determination is based on consideration of “relevant factors,” including, but not limited to:

- (i) the size and complexity of the covered project;
- (ii) the resources available to each participating agency;
- (iii) the regional or national economic significance of the project;
- (iv) the sensitivity of the natural or historic resources that may be affected by the project;
- (v) the financing plan for the project; and
- (vi) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

42 U.S.C. § 4370m-2(c)(2)(B). Executive Director determinations made pursuant to 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV) are not subject to judicial review. 42 U.S.C. § 4370m-2(c)(2)(D)(iv)(I).

## III. Background

The B2H Project aims to provide additional electrical capacity between the Pacific Northwest region and the Intermountain region of southwestern Idaho. The approved route crosses approximately 100 miles of Federal land and about 190 miles of private land or land administered by the state. State court litigation and delays in obtaining rights of access to the private and state lands initially prevented the Project Sponsor from completing both survey work needed to inform its Section 404 permit application and the construction plan of development (POD) required for BOR’s use authorization process.<sup>2</sup>

The Project Sponsor was able to do some surveys and submit an application to USACE in January 2023, but the application was incomplete as it did not include wetland delineation

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<sup>2</sup> The Executive Director previously discussed the state court litigation and right of access issues and will not repeat that discussion here. See <https://www.permits.performance.gov/fpisc-content/boardman-hemingway-transmission-line-project-ed-determination-use-authorization-doi>.

survey data for the Idaho portion of the line. The Project Sponsor anticipates it will be able to complete the remaining survey work and submit a revised application to USACE in January 2024. Assuming the revised application is complete, USACE will issue a Section 404 permit decision by June 28, 2024.

The Project Sponsor is still revising the POD needed for BOR's use authorization. The Project Sponsor plans to finalize the POD and submit an application to BOR by December 31, 2023. If BOR receives a complete application by the end of 2023, the agency will issue a use authorization decision by March 31, 2024.

BLM consulted with the Project Sponsor per 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I) and represents that the Project Sponsor has no objection to the proposed permitting timetable extension.

The Executive Director similarly consulted with the Project Sponsor, as required by 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV), and confirmed the Project Sponsor does not object to the requested permitting timetable modifications.

#### **IV. Discussion**

Like BLM's first extension request for the B2H Project, the reasons underlying this request are outside the control of BLM, USACE, and BOR. The Project Sponsor has not concluded work that is a necessary prerequisite to submission of complete applications. Given that the causes for the delay are wholly outside the control of the Federal agencies, the Executive Director finds that extending the completion dates for the USACE Section 404 and the BOR use authorization decisions are warranted.

#### **V. Determination**

For the reasons identified above, BLM's extension request is **GRANTED**, and the permitting timetable is revised as requested.



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Christine Harada  
Executive Director  
Federal Permitting Improvement Steering Council