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

March 28, 2024

Santa Fe Indian School Broadband Project—NEPA; Section 106; Right-of-Way (BLM); NPS Permit; Right-of-Way (FWS Sevilleleta NWR); Section 404

I. Summary

The Santa Fe Indian School Broadband Project (Project), sponsored by Santa Fe Indian School, Inc. (Project Sponsor), is a covered project under Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. §§ 4370m. The Department of Commerce, National Telecommunications and Information Administration (NTIA), has principal responsibility for an environmental review for the Project under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, which makes NTIA the lead agency for both NEPA and FAST-41.

NTIA submitted a request to the Permitting Council Executive Director (Executive Director) to extend completion dates for multiple Federal actions on the Project's permitting timetable. NTIA's request includes extensions for its NEPA action and consultation under Section 106 of the National Historic Preservation Act (Section 106), 54 U.S.C. § 306108. NTIA seeks extensions for right-of-way authorizations from the Department of the Interior, Bureau of Land Management (BLM) and Fish and Wildlife Service (FWS). NTIA's request includes an extension for a permit from the Department of the Interior, National Park Service (NPS permit). Finally, NTIA requests an extension of authorization from the United States Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act, 33 U.S.C. § 1344 (Sections 404). This is NTIA's second request for modification of the Project's permitting timetable.¹

For the following reasons, NTIA's extension request is **GRANTED**, and the Project permitting timetable will be revised accordingly.

¹ The previous Executive Director Determination approving permitting timetable modifications is available here: <https://www.permits.performance.gov/fpisc-content/santa-fe-indian-school-executive-director-determination-nepa-section-106-404-right>.

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) and 4370m-2(c)(2)(D)(i)(IV). 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

NTIA seeks authorization to modify the completion dates shown in the table immediately below.

Action Agency	Action	Milestone	Original Date	Current Date	Requested Date
NTIA	EA	EA Process Concluded	7/15/2024	9/15/2024	10/15/2024
	Section 106	Section 106 Consultation Concluded	1/31/2024	5/1/2024	8/15/2024
BLM	Right-of-Way	Final Decision / Agency Action	7/31/2024	11/15/2024	12/15/2024

FWS	Right-of-Way	Final Decision / Agency Action	10/30/2024	1/30/2025	2/28/2025
NPS	NPS Permit	Final Decision / Agency Action	7/31/2024	12/15/2024	1/15/2025
USACE	Section 404	Pre-construction Notification (PCN)/Form ENG 4345/Joint Application Form Received	4/1/2024	7/1/2024	8/1/2024
		Complete Pre-Construction Notification (PCN)/Application Received	5/1/2024	8/1/2024	9/1/2024
		Final Verification/Permit Decision Rendered	8/13/2024	11/1/2024	12/1/2024

NTIA is requesting to modify the Section 106 completion date to allow for further coordination between the Project Sponsor and Pueblos and Tribes regarding alignment of the proposed route and protection of important resources.

NTIA has determined more time is needed to prepare and finalize the document that will conclude the NEPA process and is thus requesting to extend the final NEPA completion date. The NEPA date change impacts the timing of cooperating agency dependent actions, including the BLM and FWS rights-of-way, NPS Permit, and USACE Section 404 actions.

Consultation with Project Sponsor on Permitting Timetable Modifications

Prior to submitting its extension request to the Executive Director, NTIA 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 also has consulted with the Project Sponsor, as required by 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV), and the Executive Director has confirmed the Project Sponsor does not object to the requested permitting timetable modifications.

IV. Discussion

Extending the permitting timetable will provide additional time for meaningful engagement with the Pueblos and Tribes, which is critical to identifying and protecting natural,

archeological, and cultural resources as well as locations of historic and religious significance in the Project area.

V. Determination

NTIA's extension request is **GRANTED**, and the permitting timetable shall be revised as requested.



Eric B. Beightel
Executive Director, Permitting Council