



## PERMITTING COUNCIL

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

February 29, 2024

#### Boardman to Hemingway Transmission Line — Use Authorization (DOI-BOR)

##### I. Summary

The Boardman to Hemingway Transmission Line (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. 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, 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 Project on November 17, 2017. The Project has authorizations pending with two Federal agencies: a use authorization from the Department of the Interior, Bureau of Reclamation (BOR), and a United States Army Corps of Engineers (USACE) permit decision under Section 404 of the Clean Water Act, 33 U.S.C. § 1344 (Section 404).

On February 27, 2024, BLM submitted a request to the Federal Permitting Improvement Steering Council Executive Director (Executive Director) to modify completion dates for the BOR use authorization from March 31, 2024 to December 18, 2024.<sup>1</sup> For the following reasons, BLM's extension request is **GRANTED**, and the Project permitting timetable will be revised accordingly.

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<sup>1</sup> This is BLM's third request to modify the Project's permitting timetable, and the Executive Director's Determinations on BLM's previous requests are available here:

<https://www.permits.performance.gov/fpisc-content/boardman-hemingway-transmission-line-project-ed-determination-use-authorization-doi>

<https://www.permits.performance.gov/sites/permits.dot.gov/files/2023-05/2023-04-14%20B2H%20ED%20Determination%20on%20the%20Record%20%281%29.pdf>

## 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

The 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. The Project Sponsor has been delayed in providing complete applications for the final two authorizations required for the Project. The previous delays were due to state court litigation and difficulties in obtaining rights of access to the private and state lands, which prevented the Project Sponsor from completing survey work needed to inform its Section 404 permit application and the construction plan of development (POD) required for BOR's use authorization process.

The Project Sponsor was able to complete the survey work and submit an application to BOR, which BOR deemed complete on December 7, 2023. But within the past few weeks, the Project Sponsor informed BOR that it would need to submit a new application based on new information.

The Project Sponsor intends to submit a supplemental application to BOR by June 2024, and BOR will need approximately 180 days to review the application. Accordingly, BLM, as the lead agency, has requested to move the final completion date for the BOR use authorization from March 31, 2024 to December 18, 2024.

Consultation with Project Sponsor on Permitting Timetable Modifications

Prior to submitting its extension request to the Executive Director, 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 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**

Like BLM’s previous extension requests for this Project, the reason for the delay is outside the control of BLM and BOR. With that understanding, the Executive Director finds that extending the completion dates for the BOR use authorization is warranted.

**V. Determination**

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



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Eric B. Beightel  
Executive Director  
Federal Permitting Improvement Steering Council