



FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

Annual Report to Congress

Fiscal Year 2022

Acknowledgements

The Federal Permitting Improvement Steering Council (Permitting Council) Executive Director prepared this report pursuant to 42 U.S.C. § 4370m-7(a)(1)(A), with review by the Permitting Council members pursuant to 42 U.S.C. § 4370m-7(a)(1)(B).

The Permitting Council is a unique Federal agency charged with improving the transparency and predictability of the Federal environmental review and authorization process for certain critical infrastructure projects. The Permitting Council comprises the Executive Director, who serves as the Permitting Council Chair, and 15 members, including the Deputy Secretary (or equivalent) from 13 Federal agencies, the Chair of the Council on Environmental Quality, and the Director of the Office of Management and Budget.



Department of Agriculture



Department of the Army



Department of Commerce



Department of Energy



Department of Transportation



Department of Defense



Federal Energy Regulatory Commission



Department of Homeland Security



Nuclear Regulatory Commission



Department of Housing and Urban Development



Advisory Council on Historic Preservation



Office of Management and Budget



Council on Environmental Quality



Environmental Protection Agency



Department of the Interior



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Acronyms and Abbreviations

ACHP	Advisory Council on Historic Preservation
ARC	Annual Report to Congress
BOA	Basic Ordering Agreement
BOEM	Bureau of Ocean Energy Management
CEQ	Council on Environmental Quality
CPP	Coordinated Project Plan
DHS	Department of Homeland Security
DMG	Data Management Guide
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ERIF	Environmental Review Improvement Fund
FAST-41	Title 41 of the Fixing America's Surface Transportation Act
FERC	Federal Energy Regulatory Commission
FIN	FAST-41 Initiation Notice
FY	Fiscal Year
G2G	Government-to-Government
GAO	Government Accountability Office
GSA	General Services Administration
HUD	Department of Housing and Urban Development
IJA	Infrastructure Investment and Jobs Act
IRA	Inflation Reduction Act
LNG	Liquefied Natural Gas
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NRC	Nuclear Regulatory Commission
OMB	Office of Management and Budget
OPM HRS	Office of Personnel Management Human Resources Solutions
Permitting Council	Federal Permitting Improvement Steering Council
RPS	Recommended Performance Schedule
TDAT	Tribal Directory Assistance Tool
Udall Foundation	Udall Foundation's John S. McCain III National Center for Environmental Conflict Resolution
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture



USFWS

U.S. Fish and Wildlife Service



Note from the Executive Director

Fiscal Year 2022 was truly transformative for Federal infrastructure permitting, and especially for the Permitting Council and the Federal agencies represented by its members. In November 2021, the Infrastructure Investment and Jobs Act (IIJA) codified the critical role that the Permitting Council plays in improving the Federal infrastructure permitting process by:

- Making the Permitting Council a permanent Federal agency;
- Expanding the Executive Director’s ability to transfer funds from the Environmental Review Improvement Fund to support more timely and efficient environmental reviews and authorizations;
- Underscoring the role of the Permitting Council as a Federal center for permitting excellence, and,
- Making it easier for Tribal-sponsored infrastructure projects to access the full benefits of our statute, Title 41 of the Fixing America’s Surface Transportation Act (FAST-41).

In May 2022, the Biden-Harris Administration issued the Permitting Action Plan, which further reinforces the importance of the Permitting Council. The Permitting Action Plan calls upon Permitting Council agencies to develop and implement a roadmap to deliver on the once-in-a generation investments in infrastructure enacted in the IIJA, and to provide permitting transparency and predictability to a broad array of important infrastructure projects on the Permitting Dashboard. In August 2022, the President signed the Inflation Reduction Act (IRA), which provides \$350 million in appropriations to the Permitting Council over a nine-year period, and the Hagerty Amendment to the Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act, which added six new FAST-41 sectors.

These landmark legislative and executive actions have provided the authority, resources, and momentum necessary for the Permitting Council to significantly bolster its work to improve the efficiency, transparency, and predictability of the Federal environmental review and authorization process for infrastructure projects. For example, in Fiscal Year 2023, we intend to transfer \$75 million of our IRA funds to Federal agencies for the purpose of facilitating timely and efficient reviews of FAST-41 projects. We also currently are developing a framework for transferring ERIF funds to state and local governments for that same purpose and have set aside \$5 million to enable Tribes to more meaningfully and effectively engage in the review of FAST-41 projects.

The Permitting Action Plan contemplates the addition of high-priority projects, identified in part by sector specific infrastructure teams, to the Permitting Dashboard under an IIJA amendment to FAST-41 which allows the Executive Director to post projects other than FAST-41 “covered projects” to the Dashboard in the interest of transparency. Posting these “transparency projects” to the Dashboard will increase their visibility and will enable my team and the Permitting Council to provide additional oversight, tracking, and interagency coordination for these transparency projects.

The following Annual Report showcases in more detail the actions taken by the Permitting Council in Fiscal Year 2022 to implement FAST-41 and deliver on the vital commitments to the American people that are embodied in the IIJA, the IRA, and the CHIPS Act. The report also highlights the active FAST-41 project portfolio and showcases agency progress towards improving transparency, timeliness, and predictability in alignment with FAST-41’s requirements.



It is an exciting time to be working in the infrastructure permitting field. The work we undertake today will help usher the United States' transition to a clean and secure energy economy while providing more equitable environmental and social outcomes. I look forward to continued collaboration with the Permitting Council and Congress as we continue to build out the nation's infrastructure.

Sincerely,



Christine Harada
Executive Director
Federal Permitting Improvement Steering Council



About the Permitting Council

Established pursuant to Title 41 of the Fixing America's Surface Transportation Act (FAST-41), 42 U.S.C. §§ 4370m *et seq.*, the Permitting Council is an independent Federal agency comprised of 16 individuals, including the Permitting Council Executive Director (Council Chair), 13 Federal agency council members (Deputy Secretary or equivalent designees of the Secretaries of Agriculture, Army, Commerce, Housing and Urban Development, the Interior, Energy, Transportation, Defense, and Homeland Security, Administrators of the Environmental Protection Agency, and Chairmen of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation), and additional council members, the Chair of the Council on Environmental Quality (CEQ) and the Director of the Office of Management and Budget (OMB).

The Permitting Council facilitates deliberate, coordinated, and transparent Federal environmental reviews and authorizations¹ for FAST-41 “covered” infrastructure projects across the following industry sectors: renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity,² carbon capture, and mining. The Permitting Council may, by majority

Agencies Represented on the Permitting Council:

- Advisory Council on Historic Preservation (ACHP)
- Army Corps of Engineers (USACE)
- Department of Agriculture (USDA)
- Department of Commerce (DOC)
- Department of Defense (DOD)
- Department of Energy (DOE)
- Department of Homeland Security (DHS)
- Department of the Interior (DOI)
- Department of Transportation (DOT)
- Environmental Protection Agency (EPA)
- Federal Energy Regulatory Commission (FERC)
- Department of Housing and Urban Development (HUD)
- Nuclear Regulatory Commission (NRC)

Additional Members:

- Executive Director
- Director, Office of Management and Budget (OMB)
- Chair, Council on Environmental Quality (CEQ)

¹ The term “environmental review” means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under the National Environmental Policy Act. 42 U.S.C. § 4370m(11). The term “authorization” means any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with 42 U.S.C. § 4370m–2(c)(3)(A), a State agency. Per 42 U.S.C. § 4370m(3).

² Semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, and cybersecurity were added as FAST-41 sectors on August 16, 2022 by S. 3451, Pub. L. 117-173, 136 Stat. 2103.



vote, determine new FAST-41 sectors. Additional FAST-41 sectors determined by the Permitting Council can be found at 40 C.F.R. § 1900.2.

FAST-41 provides unique transparency into the Federal permitting process through management of a comprehensive Federal permitting timetable for each FAST-41 covered infrastructure project on the public-facing [Permitting Dashboard](#), which accounts for, organizes, and coordinates all necessary Federal environmental reviews and authorizations for a project. Managing a permitting timetable in compliance with FAST-41 requires close communication among the participating Federal agencies, between the Federal agencies and project sponsors, and, in circumstances where a state chooses to participate in the Federal environmental review and decision-making process, among the Federal agencies and participating state agencies. FAST-41 encourages improved business practices in the environmental review and decision-making process for covered infrastructure projects.

FAST-41 coverage provides a more transparent, coordinated, and predictable Federal environmental review and authorization process that encourages investment in infrastructure by providing agencies, Congress, project sponsors, and the public with:

- Transparency into the Federal environmental review and authorization process, including all major steps and requirements needed to site, construct, and commence operation of a covered project.
- Early identification, elevation, and resolution of potential risks and conflicts that may arise during the Federal environmental review, authorization, and decision-making process.
- Clear and regularly updated schedules for completion of each stage of Federal environmental review and authorization, which are coordinated and synchronized among agencies and participating states.

FAST-41 does not dictate project-related outcomes or affect the level of environmental review a project receives.³ The statute instead requires only transparency and deliberate coordination of Federal effort in making environmental review and permitting decisions. FAST-41 coverage expressly does not alter or supersede any applicable statutory or regulatory requirement, environmental law, regulation, required review process, or public involvement procedure. FAST-41 coverage does not predetermine the outcome of any Federal decision-making process with respect to any covered project, or mandate completion of FAST-41 project reviews before any other project reviews.

As amended by the Infrastructure Investment Act of 2021 (IIJA), Pub. L. 117-58, 135 Stat. 429 (Nov. 15, 2021) FAST-41 authorizes the Permitting Council Executive Director (Executive Director) to transfer funds from the Environmental Review Improvement Fund (ERIF) to other Federal agencies, and state, local, and Tribal governments, to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects.⁴ The Executive Director additionally now may expend ERIF funds to support the role of the Permitting Council as a Federal center for permitting excellence, including supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and providing fora for sharing information and lessons learned.

³ See 42 U.S.C. §§ 4370m-6(d) & (e).

⁴ 42 U.S.C. § 4370m-8(d).



Report Summary

Pursuant to 42 U.S.C. § 4370m-7(a)(1) as amended, this Annual Report to Congress (ARC) details the progress of the Permitting Council in implementing FAST-41 during Fiscal Year (FY) 2022. This ARC includes an introduction to FAST-41 and the Permitting Council; a description of the FAST-41 covered project portfolio and an evaluation of progress made in implementing FAST-41 during FY 2022. The ARC, which has been reviewed by the Permitting Council members pursuant to 42 U.S.C. § 4370m-7(a)(1)(B), is submitted to Congress by the Executive Director and published on the Permitting Dashboard.

IIJA amended FAST-41 to require the Executive Director to submit to Congress on a quarterly basis a separate report evaluating agency compliance with the provisions of FAST-41, including a description of the implementation and adherence of each agency to the Coordinated Project Plan (CPP) and permitting timetable requirements in 42 U.S.C. § 4370m-7(a)(2). The Executive Director began submitting this required quarterly Agency Performance Reports under separate cover beginning in Q2 FY 2022. Quarterly Performance Reports can be found [here](#).

Previous reports to Congress for FY 2016-2021 can be found [here](#).



Description of Project Portfolio

FAST-41 is a voluntary program for qualifying infrastructure projects; project sponsors must apply for and obtain FAST-41 coverage for their projects.⁵ The FAST-41 program provides oversight, strengthens cooperation and communication among agencies, enhances transparency, and emphasizes efficient processing of environmental reviews and authorizations. FAST-41 does not modify any underlying Federal statute, regulation, or mandatory environmental reviews.

The FAST-41 project portfolio currently consists of “covered projects,” as defined by 42 U.S.C. § 4370m(6).⁶ This report focuses on a subset of covered projects, those undergoing active Federal review during FY 2022. Projects undergoing active review are projects that were, at any time in FY 2022, not canceled, complete, or paused.⁷ There were 30 active FAST-41 covered projects in FY 2022, organized by sector in Figure 1.⁸

	Offshore Wind		Electricity Transmission
	Solar		Pipelines
	Other Renewable Energy		Ports and Waterways
			Water Resources

⁵ See 42 U.S.C. §§ 4370m-2(a)(1), (b)(2)(A)(ii).

⁶ A FAST-41 covered project is a project in one of the FAST-41 sectors (see 42 U.S.C. § 4370m(6)(A) & 40 C.F.R. 1900.1 & 1900.2) that meets one of the “covered project” criteria at 42 U.S.C. § 4370m(6) and has obtained covered project status pursuant to the procedures at 42 U.S.C. § 4370m-2(a) and (b)(2).

⁷ The set of projects undergoing active Federal review was derived from a analysis of the Permitting Dashboard’s non-public revision history dataset for FAST-41 covered projects.

⁸ The Renewable Energy Production sector is depicted as three sub-sectors: offshore wind, solar, and other renewable energy.



Atlantic Shores South (fka Atlantic Shores Project 1) OSW2	Atlantic Shores North OSW1	Bay State Wind Project OSW3	Beacon Wind OSW4	Coastal Virginia Offshore Wind Commercial Project OSW5	Empire Wind Energy Project OSW6
Kitty Hawk North Offshore Wind OSW7	Kitty Hawk South Offshore Wind OSW8	Maryland Offshore Wind Project OSW9	SouthCoast (fka Mayflower Wind Energy Project) OSW10	Ocean Wind 1 Project OSW11	Revolution Wind Farm Project OSW12
Skipjack Wind Farm OSW13	South Fork Wind Farm and South Fork Export Cable OSW16	Sunrise Wind Farm OSW14	New England Wind (fka Vineyard Wind South) OSW15	Bonanza Solar Project SLR1	Kulning Wind Energy Project ORE1
Lake Elsinore Advanced Pumped Storage Project HYD1	Boardman to Hemingway Transmission Line ELT1	Cardinal-Hickory Creek 345 kV Transmission Line ELT2	SunZia Southwest Transmission ELT3	Ten West Link ELT4	Alaska LNG Project PPL1
Mountain Valley and Equitrans Expansion Project PPL2	PennEast Pipeline PPL3	Plains Pipeline, L.P. Lines 901 and 903 PPL4	Port of Corpus Christi Authority Channel Deepening PWW1	Mid-Barataria Sediment Diversion WTR1	Mid-Breton Sediment Diversion WTR2

Figure 1. List of covered projects undergoing active Federal review in FY 2022. This includes all FAST-41 projects, except those that were paused, canceled, or complete for the entirety of FY 2022.



Figure 2 summarizes the status, as of September 30, 2022 (the end of FY 2022), of FAST-41 covered projects undergoing active Federal review.⁹

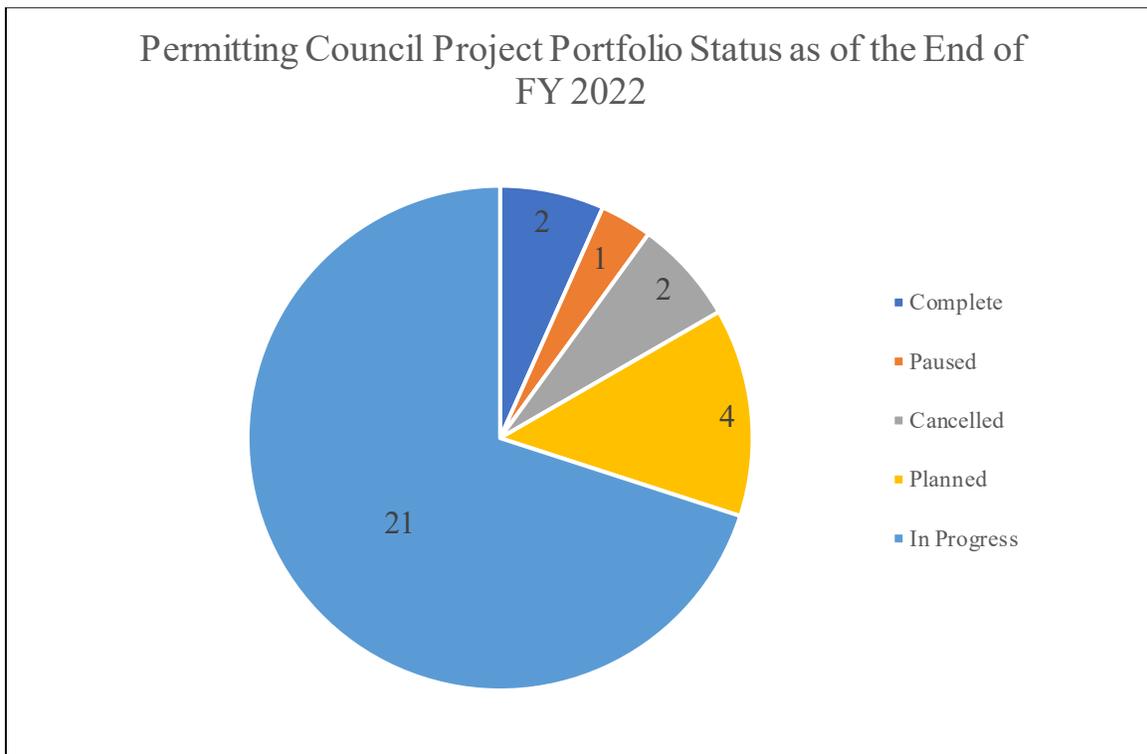


Figure 2. Graph showing the status of each project in the Permitting Council portfolio as of the end of FY 2022

During FY 2022:

- Several projects joined the roster of projects under active review. These were all offshore wind projects, and included Beacon Wind, Atlantic Shores North, Kitty Hawk South, and Maryland Wind.
- Some projects were split into two projects. In the third quarter of the fiscal year, the Kitty Hawk Offshore Wind Project was separated into an in-progress Kitty Hawk North, and a planned Kitty Hawk South. Similarly, Atlantic Shores was renamed Atlantic Shores South, while a new planned Atlantic Shores North was added to the Permitting Dashboard. These projects were split due to division of offshore wind Bureau of Ocean Energy Management (BOEM) lease areas.
- Some projects advanced in their permitting timelines, moving from “planned” to “in progress.” These include Bonanza Solar Project, Kitty Hawk South, Kulning Wind, and Maryland Wind.

⁹ Project status was derived from analysis of the Dashboard’s non-public revision history dataset.



- Three projects were canceled: PennEast Pipeline, Lake Elsinore Advanced Pumped Storage Project, and Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline. Federal environmental review and authorization of these projects were terminated by the appropriate permitting agencies.¹⁰
- Plains Pipeline, L.P.’s Lines 901 and 903 Replacement Project was paused at the end of the first quarter and did not resume for the remainder of the fiscal year. The project pause is due to the project sponsor continuing work on developing a new schedule for completion of the Environmental Impact Statement (EIS)/Environmental Report.
- The Mountain Valley and Equitrans Expansion Project had been previously identified as “complete” on the Permitting Dashboard and was updated to reflect its actual status of “in progress.” This status change was made to reflect the relevant agencies’ agency’s commitment to transparently reflect on the Permitting Dashboard the realities associated with reviewing and authorizing the complex projects in the FAST-41 covered project portfolio. The Mountain Valley and Equitrans Expansion Project was in the initial inventory of FAST-41 covered projects designated by the Executive Director in September 2016, and it closed out of the Permitting Dashboard in late 2017. However, the project sponsor submitted a notice of the initiation of a FAST-41 covered project (a.k.a., FAST-41 Initiation Notice, or “FIN”) for incomplete actions following associated court decisions. A determination to re-establish FAST-41 coverage for this project was made on September 1, 2022.

Figure 3 shows the location of FAST-41 covered projects undergoing active Federal review in FY 2022.

¹⁰ Each project page contains an explanation of why the project was canceled. Project pages are available here: [PennEast Pipeline](#), [Lake Elsinore Advanced Pumped Storage Project](#), and [Jordan Cove LNG Terminal and Pacific Connector Gas Pipeline](#).



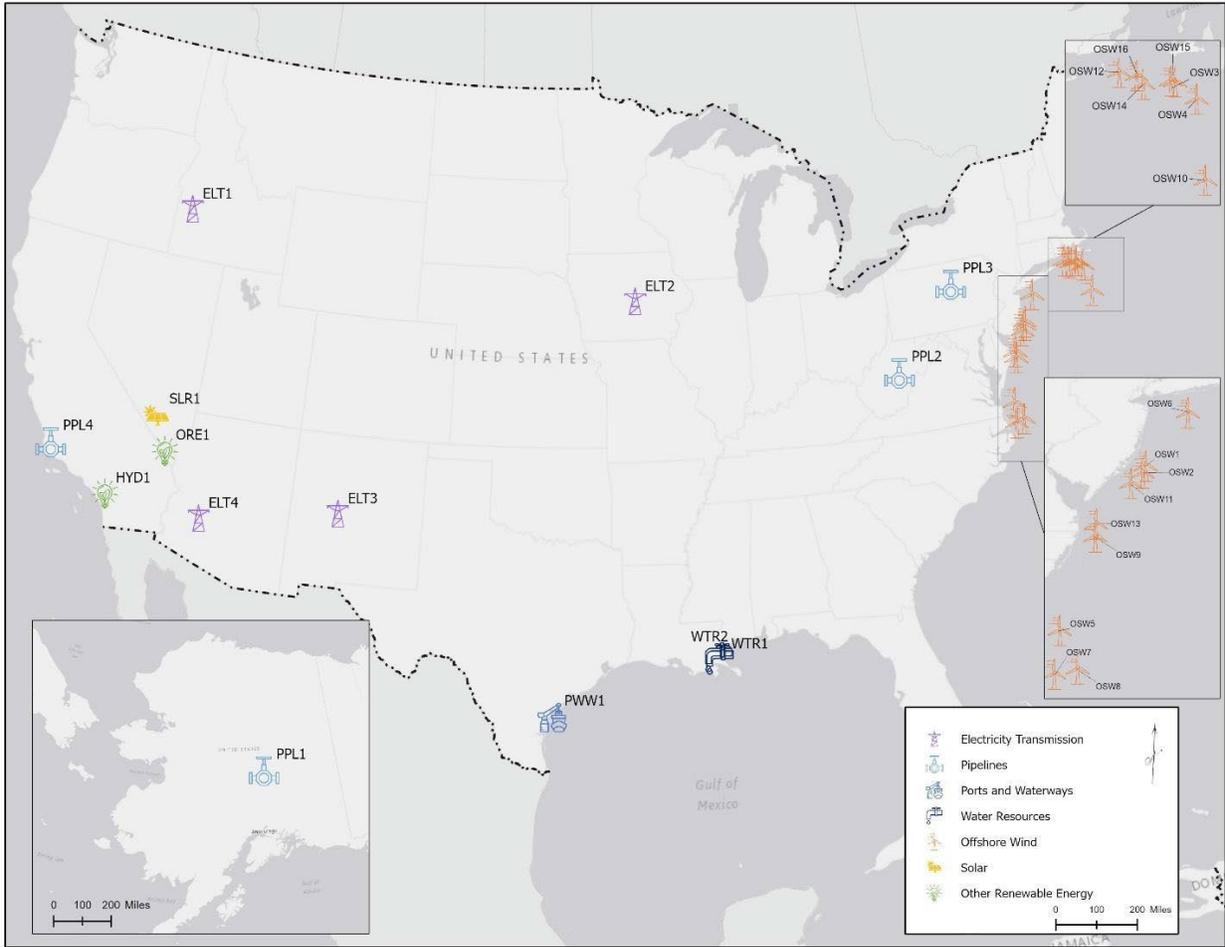


Figure 3. Map of covered projects undergoing active Federal review in FY 2022. The project labels correspond to those in Figure 1.



Progress Made Implementing FAST-41 During FY 2022

Permitting Council Efforts

Federal Permitting Workforce Needs: Capacity Building and Training

Federal agencies have consistently raised concerns regarding Federal workforce needs, namely that there is a shortage of project managers and environmental specialists, and that newly hired employees need training in the critical areas of project management, environmental reviews, and permitting.

To help address these issues, the Permitting Council Office of the Executive Director partnered with the Office of Personnel Management Human Resources Solutions (OPM HRS) to strategize on how to respond to Federal workforce staffing needs for infrastructure permitting. As experts in helping agencies build and sustain high performing organizations, OPM HRS has a deep understanding of human resource needs and is uniquely positioned to provide practical solutions to meet agencies' staff acquisition challenges. As a result of extensive collaboration, the Executive Director and OPM HRS have executed a Memorandum of Agreement (MOA) for cross-governmental hiring actions to provide agencies with staff acquisition support. This MOA outlines the process by which OPM HRS and the Office of the Executive Director will help work to build a pool of highly qualified candidates that agencies will be able to pull from to address infrastructure permitting capacity shortages.

The Office of the Executive Director also partnered with the General Services Administration (GSA) and issued a Basic Ordering Agreement (BOA) in August of 2022. The BOA allows Federal agencies to expedite contracting with approved BOA vendors that offer a wide variety of environmental review and permitting-related services upon which Federal agencies can draw to support work on FAST-41 projects. The BOA gives Federal agencies simplified access to a wide range of experts specializing in the Federal environmental review and permitting process including National Environmental Policy Act (NEPA) practitioners, engineers, skilled public involvement coordinators, and experienced project managers.

Revision of the Data Management Guide for FAST-41 Covered Projects and Quarterly Agency Performance Reports

The [Data Management Guide](#) (DMG) for FAST-41 Covered Projects on the Permitting Dashboard provides a standard operating procedure for Permitting Council member agencies to implement the FAST-41 requirements related to establishing, maintaining, modifying, and completing FAST-41 covered project permitting timetables, and maintaining related required information on the Permitting Dashboard.

In March 2022, the Office of the Executive Director, in coordination with the Permitting Council members, completed comprehensive revisions to the DMG, which incorporated the IIJA amendments to FAST-41, and removed procedures that had become unnecessary due to the revocation of Executive Order 13807,



Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, 82 FR 40463 (Aug. 15, 2017) in 2021. The new DMG became effective in July 2022.

Throughout FY 2022, and in cooperation with DOT, which manages the Federal Permitting Dashboard, the Office of the Executive Director made a number of conforming changes to Permitting Dashboard functionality in order to fully implement the DMG. For example, in FY 2022, the Office of the Executive Director simplified the submission process for agencies to certify their CPP reviews and updates, replacing the former two-step process (in which agencies certified their CPP review on the Permitting Dashboard and, if updates occurred, uploaded the updated CPP document to MAX.gov) with a one-step process submission process in which agencies certify their CPP review and updates only on the Permitting Dashboard. The Office of the Executive Director also created space on each project page for agencies to post certain required project information regarding mitigation measures, litigation, and public involvement, among other topics.

Issuance of the revised DMG and implementation of associated Permitting Dashboard enhancements have more closely aligned Permitting Dashboard process and functionality with current FAST-41 statutory requirements; enabled agencies to better manage FAST-41 permitting timetables in compliance with the FAST-41 statute; and facilitated the Executive Director's obligation to evaluate agency compliance with FAST-41 as required by IIJA. The Office of the Executive Director will continue to evaluate the need for further revisions to the DMG as necessary.

FY 2022 marks the first year that the Executive Director began submitting the Quarterly Agency Performance Reports to Congress that were required by IIJA. The Quarterly Agency Performance Reports provide an increased level of transparency with respect to the status of compliance of Federal agencies with the provisions of FAST-41. In FY 2022, the Permitting Council developed a consistent set of data and reporting format for the Quarterly Agency Performance Reports. As explained in more detail in the most recent [Quarterly Agency Performance Report](#), agencies are effectively implementing the new DMG and the requirements of FAST-41.

Expanded Tribal Initiatives

Throughout FY 2022, the Permitting Council implemented several linked efforts that are intended to improve coordination between the Federal government and federally recognized Tribes on FAST-41 implementation, including:

1. Improving the Tribal Directory Assistance Tool (TDAT)
2. Developing Best Practices to support Tribal capacity to participate in the environmental review and authorization of FAST-41 projects.
3. Improving Government-to-Government (G2G) consultation processes in partnership with the Permitting Council agencies responsible for consulting with Tribes on FAST-41 covered projects.
4. Providing FAST-41 eLearning Course for Tribes.

These efforts are designed to address problems identified in recent studies that examined issues related to G2G consultation on infrastructure projects, including the 2019 Government Accountability Office (GAO) report, Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects, GAO-19-22



(Mar. 20, 2019).¹¹ The Permitting Council Tribal initiative also supports the priorities outlined in the President’s January 26, 2021, Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships,¹² including the reaffirmation of Tribal sovereignty through G2G consultation. Congress also passed the Inflation Reduction Act (IRA), which provided \$350 million in appropriations to the Permitting Council, some of which will be made available to Tribes in FY 2023 to help Tribes participate more effectively and efficiently in environmental reviews and authorization for FAST-41 projects.

TDAT Enhancements

HUD’s TDAT is a database of Tribal contacts for HUD and its 4,000 grantees. Acknowledging the value of TDAT to agencies across the Federal government, and in response to the March 2019 GAO report, the Executive Director utilized ERIF funds and coordinated with HUD to implement technical upgrades to ensure sustained accuracy of Tribal contact data and to maintain ongoing, high-quality management of TDAT. Planned enhancements to TDAT will allow Permitting Council member agencies to use TDAT as a nationwide database for identifying interested Tribes to notify them about matters related to FAST-41 infrastructure projects that may impact Tribal land or cultural resources. Enhancements will ensure regular updates to the database to maintain its accuracy, as well as geographic information system functionality to allow for map-based queries. The enhancements will improve the quality of Federal agency outreach to Tribes. Phase one of the TDAT upgrades were completed and implemented in April 2023. Enhancements include updating information for Tribal Leaders and Tribal Historic Preservation Officers regularly and the ability for Tribes to update their areas of interest and consultation preferences.

Tribal Consultations on New Best Practices

In November 2021, IJA established a new best practice category regarding “Enhancing early stakeholder engagement, including engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of a covered project.”¹³ The Permitting Council drafted best practices for FY 2022 for this category and, in April and May 2022, the Executive Director held three Tribal consultation sessions to review the draft best practices and receive feedback from Tribes. The Office of the Executive Director revised the draft best practices based on input provided from Tribes during the consultations and, in conjunction with the Permitting Council members, [published the final FAST-41 best practices](#) for Tribal engagement in September 2022. This suite of best practices should greatly improve the incorporation of Tribal perspectives and interests into the Federal infrastructure siting and decision-making process for FAST-41 projects. The agencies currently are incorporating these new best practices into their environmental review and authorization process for FAST-41 projects and will report separately to Congress on implementing them pursuant to 42 U.S.C. § 4370m-7(a)(3).

Improved Engagement with Tribes on Infrastructure Permitting

¹¹ See <https://www.gao.gov/products/gao-19-22>.

¹² See <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

¹³ 42 U.S.C. § 4370m-1(c)(2)(B)(i)(I)



The Permitting Council Office of the Executive Director is working with the Udall Foundation’s John S. McCain III National Center for Environmental Conflict Resolution (Udall Foundation) to provide services to support Permitting Council member agencies’ Tribal engagement, including by providing training, consultation, assessment, capacity building, and facilitation efforts. The objective of this project is to help build collaboration, conflict resolution, and Tribal engagement capacity within the Permitting Council to enhance the manner in which the U.S. government interacts with Tribal governments on infrastructure projects that impact Tribal property or historical and cultural values. In FY 2022, the Office of the Executive Director offered training administered by the Udall Foundation to Federal agency staff on “Collaboration and Consultation with Native Nations in FAST-41.” This training was supplemented by an initial round of workshops, which were offered to Federal agency staff in March and May of 2022.

The Office of the Executive Director also prioritized Tribal outreach and building Tribal relationships throughout FY 2022 to create more visibility among Tribes about FAST-41 and the new IIJA provision that gave Tribes more flexibility to obtain FAST-41 coverage for Tribal sponsored infrastructure projects. The Executive Director also identified a need to better understand how FAST-41 offshore wind projects are impacting Tribes and Tribal resource limitations which may limit their ability to timely and efficiently engage in the environmental review and authorization of these projects. In September 2022, the Executive Director visited two Tribes in Massachusetts that are involved in the environmental review and authorization process for FAST-41 covered offshore wind projects to better understand the nature of their involvement and needs that would make their involvement more effective.

Introduction to FAST-41 and the Permitting Council Course for Tribal Nations

To complement the Permitting Council agency training program, in FY 2022, the Office of the Executive Director developed an eLearning course for Tribes that introduces FAST-41 and its benefits, the Permitting Council, and relevant tools and resources on the Permitting Dashboard. The course was developed in coordination with the Core Team of Tribal and Permitting Council agency representatives convened by the Udall Foundation and is available on the Permitting Dashboard. The objective of this course was to socialize with Tribes that the benefits of FAST-41 are available for Tribal-sponsored infrastructure projects, and to alert Tribes that are engaged in the Federal environmental review and authorization process for a FAST-41 project that financial support may be available to facilitate their involvement.

Recommended Performance Schedules

Pursuant to 42 U.S.C. 4730m-1(c)(1)(C), the Executive Director must consult with members of the Permitting Council to develop recommended performance schedules (RPS) for each sector and category of FAST-41 project. RPSs include the environmental reviews and authorizations that are most commonly required for each type of covered project. The Permitting Council issued baseline RPSs in 2017, and, in 2020, focused on renewable energy production, pipelines, and electricity transmission. During FY 2022, the Office of the Executive Director launched a more detailed and data-driven effort to develop complete RPSs for the renewable energy production, pipelines, and electricity transmission sectors. This effort included discussions with Permitting Council member agencies to discover trends in historic data, including factors



such as statutory timeframes, that impact project timelines. The Office of the Executive Director has also conducted extensive analysis of project data from the Permitting Dashboard and other sources to identify the types of reviews and authorizations found across projects by subsector and to gain insight into how long these authorizations generally take. These efforts are ongoing, with the goal of issuing updated RPSs for these sectors in FY 2023.

Permitting Action Plan Progress

On May 11, 2022, the Biden-Harris Administration released a new [Permitting Action Plan](#) (Plan) to strengthen and accelerate Federal infrastructure permitting and environmental reviews by fully leveraging existing permitting authorities and structures, including FAST-41 and the Permitting Council. The Plan provides a roadmap for agencies to deliver on the once-in-a generation investments in infrastructure enacted in IIJA and related statutes. The Plan accomplishes this by outlining the Administration’s strategy for ensuring that Federal environmental reviews and permitting processes are effective, efficient, and transparent, guided by the best available science to promote positive environmental and community outcomes, and shaped by early and meaningful public engagement. The Plan is intended to help grow the nation’s clean energy economy, revitalize communities across the country, lower costs for families, support the creation of good-paying jobs, and ensure infrastructure investments are mobilized in a timely and efficient way, without unnecessary bureaucratic delay. The work of the Permitting Council is at the core of the Plan, and the Executive Director is to play a critical role in its implementation.

The Plan recognizes that the Permitting Dashboard is an effective mechanism to enhance transparent interagency coordination, accountability, and efficient decision-making. To that end, the Plan leverages the Executive Director’s new FAST-41 authority to direct agencies to add projects to the Permitting Dashboard “in the interest of transparency” to bring the benefits of publicly transparent and accountable permitting timetable management to important infrastructure projects identified by sector-specific interagency teams.¹⁴ On March 6, 2023, the Executive Director, OMB, and CEQ issued [guidance](#) to agencies and the sector-specific teams to propose projects suitable to include on the Permitting Dashboard pursuant to this new authority.

The Plan additionally directs the sector specific teams to provide charters to the Permitting Council describing their organizational structure, mission and objectives, and strategies for promoting the effectiveness and timeliness of permitting. The Plan requires the sector specific teams provide updates to the Permitting Council at least quarterly on the status of large, complex, or significant projects in meeting permitting milestones and schedules, strategies to address disputes or complicated issues, whether additional resources are necessary to reduce bottlenecks, and any other pertinent issues as determined by the teams.

In addition to the OMB Director and CEQ Chair, the Executive Director has since received and reviewed the sector-specific team charters and should begin receiving proposals from the teams for adding priority infrastructure projects to the Permitting Dashboard shortly.

¹⁴ See 42 U.S.C. 4370m-2(b)(2)(A)(iii).



Internal Capacity Building and Increased Hiring

Since becoming a permanent agency in November 2021, the Permitting Council made tremendous strides in increasing internal capacity of the organization. In 2022, the Permitting Council Office of the Executive Director added 13 staff, for a total of 19 employees. This allowed the Permitting Council to build capacity to address needed policies, procedures, and organizational infrastructure needs. The Office of the Executive Director intends to continue onboarding both permanent and detail staff during FY 2023 to bring full functioning capacity to this new and independent agency.

Transparency and Descriptive Dashboard Measures

FAST-41 prioritizes transparent and timely decision making and does not truncate any necessary Federal review or public outreach processes. Accordingly, FAST-41 provides flexibility and allows agencies to liberally update anticipated completion dates on the project permitting timetable as long as updates are made according to the consultation and disclosure requirements established in the FAST-41 statute. Agencies must post to the public Permitting Dashboard complete permitting timetables that include all necessary environmental reviews and authorizations needed for a project, estimate realistic timeframes for the completion of the environmental reviews and authorizations, and provide clear explanations for why permitting timetable contents and timeframes may change over time.

Milestones Completed

In FY 2022, 131 individual milestones across 21 projects were marked complete. In FY 2022, the Permitting Dashboard launched a new identification that flags which party is responsible for the milestone's completion – either the “agency” or the “applicant.” In the first year of its implementation, the Permitting Dashboard recorded 79 agency milestones were marked complete and 52 applicant milestones were marked complete.

The distinction between agency and applicant responsibility is important as it is related to the requirements of the FAST-41 statute. In particular, applicant-responsible actions are not subject to 30-day lockout periods for date modifications, nor are Executive Director Determinations on the Records required as they are for certain agency-responsible date movements. Further, delays attributed to applicant responsibility do not count towards the “limitation on length of modification” calculation under 42 U.S.C. § 4370m2(c)(2)(D)(iii)(I).

Permitting Timetable Modifications

Agencies modified 350 milestones for covered projects in FY 2022. Of the modified milestones, agencies indicated that only 36 changes were attributable to Federal government factors, while 21 were due to project sponsor factors.¹⁵

¹⁵ The other permitting timetable modifications were due to dependencies between reviews and authorizations (17), projects pauses (2), pending litigation (2), data entry errors (6), projects a head of schedule (12), and updates to planned dates (254). The Office of the Executive Director is revising how the Dashboard captures reasons for date changes to more clearly reflect the realities of the environmental review and authorization process and will report in more detail in next year's Annual Report to Congress.”



Projects Completing the Environmental Review and Authorization Process

Ten West Link Transmission Line project completed the environmental review and authorization process in FY 2022. This FAST-41 covered project is a 125-mile, 500-kilovolt transmission line that will connect existing substations near Tonopah, Arizona and Blythe, California. The project is intended to facilitate increased renewable energy development and delivery in Arizona and California. The \$280 million project, sponsored by DCR Transmission LLC, a joint venture of Starwood Energy Group, is anticipated to create 160 temporary jobs and several permanent jobs. Through FAST-41, the Bureau of Land Management coordinated reviews with other agencies, including the National Park Service, U.S. Fish and Wildlife Service (USFWS), ACHP, CEQ, Department of Defense (including leadership at the U.S. Army's Yuma Proving Grounds and the Military Aviation and Installation Assurance Siting Clearinghouse), as well as Tribal leadership and local communities, to make a timely project decision. The project is expected to be operational by the end of 2023.

South Fork Wind project is the first FAST-41-covered U.S. offshore wind project to complete the environmental review and authorization process. This 132-megawatt offshore wind farm, sponsored by Ørsted and Eversource, will consist of 12 wind turbines and a transmission system that will generate enough clean energy to power 70,000 homes through a landfall interconnection in the town of East Hampton, New York. The offshore wind farm will be located approximately 19 miles southeast of Block Island, Rhode Island, and approximately 35 miles east of Montauk Point, New York. Through FAST-41, the DOI's BOEM coordinated reviews with other federal agencies including the EPA, USACE, USFWS, and DOC National Oceanic and Atmospheric Administration. The project is expected to be operational at the end of 2023.

Next Steps – Plans for FY 2023

Recommended Performance Schedules

The Office of the Executive Director will continue to collaborate with FAST-41 members to synthesize historical project data and capture projected permitting authorization timelines by sector and subsector, with a goal of issuing more specific RPSs broken out by subsector in FY 2023.

Permitting Action Plan

In the upcoming fiscal year, the Executive Director will continue to collaborate with OMB, CEQ, and Federal agencies towards a successful rollout of the Permitting Action Plan, including evaluating the lists of projects that the sector-specific teams and the agencies recommend for inclusion on the Permitting Dashboard, determining which of these projects should be posted on the Permitting Dashboard in the interest of transparency, and ensuring that the agencies are well positioned to manage these permitting timetables once they are posted. The Executive Director periodically will identify additional “transparency projects” to add to the Permitting Dashboard and will provide technical assistance to affected agencies to help manage project permitting timetables.



Supporting the Role of the Permitting Council as a Center for Permitting Excellence

Pursuant to the IIJA amendments, the Executive Director is authorized to expend ERIF funds to support the role of the Permitting Council as a Federal center for permitting excellence, including, but not limited to, supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and fora for sharing information and lessons learned. In the upcoming fiscal year, the Executive Director will continue to invest in project management tools to facilitate more predictable and cooperative interagency work on infrastructure review and permitting. The Executive Director also will work to facilitate interagency rotational opportunities to increase familiarity of each agencies' staff with the procedures and culture of other agencies with which they cooperate. To further predictability, the Executive Director will help agencies more effectively track their infrastructure project permitting workflows and increase governmentwide compatibility of permitting-related information. The Executive Director will also continue to address workforce and capacity issues by building training resources and by providing innovative contracting and hiring vehicles to ensure that agencies can access the resources and talent they need for efficient and effective environmental reviews and authorizations for infrastructure projects.

Funding Transfers to States, Tribes, and Local Governments for Timely and Efficient Environmental Reviews

The activities of the Permitting Council are funded through the ERIF, which is administered by the Executive Director.¹⁶ On November 5, 2021, the President signed IIJA into law. The IIJA is a historic \$1.2 trillion bipartisan infrastructure legislation which provides much needed investments in American infrastructure to improve the nation's global competitiveness. Among other things, the IIJA gave the Executive Director expanded authority to transfer ERIF funds directly to state, local, and Tribal governments to facilitate timely and efficient environmental reviews and authorizations of FAST-41 projects.

On August 16, 2022, the President signed the IRA into law, providing another landmark investment in our nation's future that will transform efforts to combat climate change. The IRA appropriated \$350 million into the ERIF, which is available through FY 2031.

The significant increase in funding coupled with expanded ability to transfer ERIF funds to state, local, and Tribal governments to make the environmental review and authorization process for FAST-41 projects timelier and more efficient necessitates the establishment of a funding transfer program that will prioritize, disburse, and account for the transfer of ERIF funds for these purposes. Accordingly, the Executive Director has begun coordination with White House components to prioritize funding initiatives and plans to hire staff with funding transfer experience to establish, operate, and monitor the Executive Director's funding transfer program.

¹⁶ 42 U.S.C. § 4370m-8(d).



In December 2022, the Executive Director announced the allocation of \$5 million from the ERIF to be made available to Federally recognized Tribes in order to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects. Tribal involvement is a key element of the environmental review and authorization process. However, many Tribes routinely face severe capacity barriers to participation. Increasing Tribal capacity to participate in the environmental review and authorization process is critical to ensuring timely and efficient environmental reviews and authorizations. Funds distributed through this program will assist Tribes in obtaining the expertise and capacity needed to facilitate timely and efficient reviews of FAST-41 projects. To assess the scope of needs and develop criteria for transferring funds the Permitting Council Office of the Executive Director has hosted several Nation-to-Nation consultations to gather information and Tribal feedback on opportunities to allocate ERIF funds. The Executive Director anticipates initiating ERIF funding transfers to Tribes in FY 2023.

