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

December 12, 2024

Santa Fe Indian School Broadband Project—NEPA; Section 106; NPS Permit; Right-of-Way (FWS); Right-of-Way (BLM); Right-of-Way (BIA Southern Pueblos Agency); Right-of-Way (BIA Zuni Agency); USACE 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 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 Federal Permitting Improvement Steering Council (Permitting Council) 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 (DOI), Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA) Southern Pueblos Agency, BIA Zuni Agency, and Fish and Wildlife Service (FWS) Sevilleta National Wildlife Refuge. NTIA's request also includes an extension for a permit from the DOI, 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 fifth request for modification of the Project's permitting timetable.¹

¹ The previous Executive Director Determinations approving permitting timetable modifications are available here: <https://www.permits.performance.gov/fpisc-content/santa-fe-indian-school-executive-director-determination-nepa-section-106-404-right>; <https://www.permits.performance.gov/sites/permits.dot.gov/files/2024-03/2024-3-28%20Santa%20Fe%20Indian%20School%20ED%20Determination.pdf>; <https://www.permits.performance.gov/sites/permits.dot.gov/files/2024-06/2024-06-26%20Santa%20Fe%20Indian%20School%20ED%20Determination.pdf>; and <https://www.permits.performance.gov/sites/permits.dot.gov/files/2024-07/2024-7-15%20Santa%20Fe%20Indian%20School%20Executive%20Director%20Determination.pdf>.

For the following reasons, NTIA’s extension request is **GRANTED**, and the 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) 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 below.

Action Agency	Action	Milestone	Original Date	Current Date	Requested Date
NTIA	EA	Issuance of a Final EA	4/30/2024	1/15/2025	7/15/2025
		EA Process Concluded	7/15/2024	3/15/2025	9/15/2025
	Section 106	Section 106 Consultation Concluded	1/31/2024	1/15/2025	7/15/2025

BLM	Right-of -Way	Final Decision / Agency Action	7/31/2024	5/15/2025	11/15/2025
FWS Sevilleta NWR	Right-of -Way	Application deemed complete	4/30/2024	1/15/2025	7/15/2025
		Final decision / agency action	10/30/2024	7/30/2025	1/31/2026
BIA Southern Pueblos Agency	Right-of -Way	Complete Application Received	7/31/2024	4/15/2025	10/15/2025
		Final decision / agency action	8/30/2024	5/15/2025	11/15/2025
BIA Zuni Agency	Right-of -Way	Application deemed complete	7/31/2024	4/15/2025	10/15/2025
		Final decision / Agency Action	11/30/2024	5/15/2025	11/15/2025
NPS	NPS Permit	Final Decision / Agency Action	7/31/2024	6/15/2025	12/15/2025
USACE	Section 404	Pre-construction Notification (PCN)/Form ENG 4345/Joint Application Form Received	4/1/2024	1/2/2025	7/1/2025
		Complete Pre-Construction Notification (PCN)/Application Received	5/1/2024	2/2/2025	8/1/2025
		Final Verification/Permit Decision Rendered	8/13/2024	4/2/2025	10/1/2025

NTIA is seeking to extend the Project's permitting timetable at the request of the Project Sponsor. The Project Sponsor has had internal staffing changes, causing the Project Sponsor to require additional time for Project execution. Accordingly, the Project Sponsor has asked for an additional six months to complete its coordination with the Pueblos and Tribes, which the Project Sponsor is engaged in as part of the Section 106 process. The Project Sponsor is continuing to work with the Pueblos and Tribes on cultural surveys and sensitivity concerns and

is making small refinements to the alignment of the proposed route to avoid certain cultural resources.

The Section 106 consultation and route alignment affect timing of the Environmental Assessment, which then affects the cooperating agency dependent actions. Specifically, the completion dates for rights-of-way from BLM, FWS, BIA Southern Pueblos Agency and BIA Zuni Agency; NPS Permit; and USACE Section 404 actions are dependent on the timing of completion dates for NTIA's NEPA action. Accordingly, NTIA has requested corresponding extensions for these actions as well.

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 not only that the Project Sponsor does not object but that NTIA has requested these permitting timetable modifications at the Project Sponsor's behest.

IV. Discussion

The Santa Fe Indian School Broadband Project is proposed to cross lands of numerous Pueblos and Tribes. It can take a significant period of time to have meaningful engagement with these entities, and such engagement is critical to identifying and protecting natural, archeological, and cultural resources in the Project area. Given these circumstances, the requested completion date modifications are warranted.

V. Determination

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



Eric B. Beightel
Executive Director
Permitting Council