



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

July 27, 2026

Graphite Creek Project

I. Summary

The Graphite Creek Project (“Project”), sponsored by Graphite One (Alaska) 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 *et seq.* The U.S. Army Corps of Engineers (“USACE”), has principal responsibility for the required environmental reviews, which makes USACE the lead agency for FAST-41. The United States Fish and Wildlife Service (“USFWS”) and National Oceanic and Atmospheric Administration (“NOAA”) are cooperating agencies.

USACE submitted a request to the Executive Director of the Federal Permitting Improvement Steering Council (the “Permitting Council”) to extend the completion date for the Clean Water Act Section 404 permit (“Section 404”) action and the Section 106 of the National Historic Preservation Act (“Section 106”) action on the Project’s permitting timetable. Also, the USACE preliminary assessment is that the project may cause significant effects on the quality of the human environment and therefore, USACE is changing the level of review of their National Environmental Policy Act (“NEPA”) analysis from an Environmental Assessment (“EA”) to an Environmental Impact Statement (“EIS”).

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

II. Legal Standard

Pursuant to 42 U.S.C. §§ 4370m-2(c)(2)(D)(i)(II) and (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), (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

USACE seeks authorization to modify the completion dates shown in the table below:

Action Agency	Action	Milestone	Original Date	Current Date	Requested Date
USACE	Section 106	Final verification / permit decision	8/28/2026	8/28/2026	3/28/2027
USACE	Section 404	Final Permit Decision Rendered	9/29/2026	9/29/2026	9/24/2027

USACE is also changing their NEPA analysis from an EA to an EIS and is proposing the following EIS milestones and dates.

Action Agency	Action	Milestone	Requested Date
USACE	EIS	EIS Significance Determination	8/10/2026
		Issuance of Notice of Intent to prepare an Environmental Impact Statement (EIS)	9/16/2026
		Scoping	9/16/2026
		Official Notice of Availability of a Final EIS published in the FR	9/10/2027
		Issuance of Lead Agency Record of Decision	9/24/2027

USACE started their NEPA analysis for this project as an EA. Through their analysis of the project-specific details and comments received in response to their Section 404 public notice, community meetings, and Tribal consultation and coordination, USACE expects to formalize a decision that the proposed project may result in significant effects on the quality of the human environment. In addition to the Project's currently proposed impacts to approximately 389.8 acres of waters of the United States, including 12,440 linear feet of streams, the preliminary USACE assessment identified potential significant impacts to hydrology, sediment transport, natural flow patterns, water quality, fish and wildlife resources, and subsistence and cultural practices by local communities and Tribes. USACE's evaluation during the EA also identified public interest in the

potential environmental and social impacts that may result from the Project.

Because the Section 404 evaluation and permit decision rely on the analysis performed through the EIS, the Section 404 permit decision milestone must also be extended.

Regarding Section 106, on June 18, 2026 the Alaska State Historic Preservation Office (“SHPO”) concurred with four eligibility determinations, but did not concur with fourteen other eligibility determinations for identified cultural resources. The SHPO requested additional analysis and consideration of these fourteen cultural resources. USACE is requesting additional time to conduct the additional analysis, necessary consultation with the SHPO and consulting parties, and development of a Memorandum of Agreement to provide adequate mitigation for impacts to cultural resources.

Consultation with Project Sponsor on Permitting Timetable Modifications

USACE appropriately consulted with the Project Sponsor pursuant to 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I) prior to submitting its extension request to the Executive Director and the Project Sponsor does not object to the proposed milestone extensions.

The Executive Director also 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 that the Project Sponsor does not object to this permitting timetable modifications.

IV. Discussion

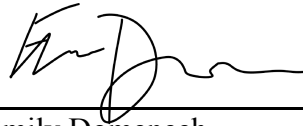
The circumstances surrounding this project justify USACE’s requested timetable modification, and the request will be granted. Pursuant to 42 U.S.C. § 4370m-2(c)(2)(B)(i) and (iv), two of the relevant factors to consider for modifications under the FAST Act are the size and complexity of the project and the sensitivity of the natural or historic resources that may be affected by the project. This is a large mining operation of a type not currently present on the Seward Peninsula with notable public interest and potential significant effects to waters of the United States, water quality, fish and wildlife resources, and subsistence and cultural resources.

A Section 106 milestone modification is also needed to allow for the following: (1) additional analysis and review of fourteen cultural resources eligibility determinations that the Alaska SHPO did not concur with; (2) formal concurrence from the Alaska SHPO and consulting parties on the project’s effect determination; and (3) to develop a Memorandum of Agreement with the Alaska SHPO in cooperation with consulting parties that provides adequate mitigation for the project’s cultural resource impacts. USACE, the Project Sponsor, and the Alaska SHPO anticipate that these remaining items will take an additional seven months to complete.

In consideration of these factors, it is necessary for USACE to have sufficient time to conduct the appropriate environmental analysis to support their eventual permit decision. It is also important for USACE to conduct the appropriate consultation with the SHPO and Tribes to evaluate impacts to cultural and historic resources. Given these circumstances, the completion date modifications are warranted.

V. Determination

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

A handwritten signature in black ink, appearing to read 'Emily Domenech', is positioned above a horizontal line.

Emily Domenech
Executive Director
Permitting Council