



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

September 28, 2026

PORTS Technology Campus Project

I. Summary

The PORTS Technology Campus Project (Project), sponsored by SB Energy (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 United States Army Corps of Engineers (USACE) has principal responsibility for the environmental review under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 *et seq.*, which makes USACE the lead agency for both NEPA and FAST-41. The cooperating agencies are the United States Fish and Wildlife Service (USFWS), the Department of Energy (DOE), and the Environmental Protection Agency (EPA).

USACE submitted a request to the Executive Director of the Federal Permitting Improvement Steering Council (the 'Permitting Council') to extend the completion date on the Project's permitting timetable for the environmental assessment (EA) and the permit decision under Section 10 Rivers and Harbors Act of 1899 and Section 404 Clean Water Act (Section 10/404).

For the following reasons, the 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 date shown in the table below:

Action Agency	Action	Milestone	Original Date	Current Date	Requested Date
USACE	EA	Issuance of a Final EA	12/23/2026	12/23/2026	1/29/2027
		EA Process Concluded	12/23/2026	12/23/2026	1/29/2027
	Section 10/404	Provisional Notification	10/01/2026	10/30/2026	11/30/2026
		Final Verification / Permit Decision Rendered	12/23/2026	12/23/2026	1/29/2027

The initial project timetable, developed collaboratively with the project sponsor and cooperating agencies at the onset of this FAST-41 covered project, was a highly compressed and aggressive schedule. To maintain each of the original milestones, specific critical technical data and project information were required from the sponsor for USACE to complete key steps in their progressive evaluation. In addition, a critical dependency for the USACE authorization is Ohio EPA's (OEPA) issuance of a Section 401 Water Quality Certification (WQC). Because the project sponsor made significant changes to the project and needed additional time to submit the necessary updated information, the current milestones are no longer feasible.

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. The project sponsor understands the need for the permitting timetable modification, and they did not object to the changes. However, they noted that OEPA's WQC, which is now anticipated on or before December 25, 2026, is necessary for USACE to issue its authorizations. The project sponsor requested that, should the WQC be issued earlier, USACE would accordingly move up the January 29, 2027 Section 10/404 final milestone on a day-for-day basis.

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 they do not object to the milestone changes.

IV. Discussion

The circumstances surrounding this project justify the 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 this modification under the FAST Act are the size and complexity of the covered project and the sensitivity of the natural or historic resources that may be affected by the project.

This is a large, and complex project that has required plan adjustments as reviews have progressed. After the initial permitting timetable was developed, the project sponsor made a significant change to the extent of the project area to avoid a cultural site. The project sponsor needed additional time to provide updates to their application package (text, maps, tables, mitigation calculations, etc.) to show the reduction in project size and the associated building design modifications. While the changes had the benefit of significantly reducing impacts to sensitive cultural resources and other areas, the original timeline for the WQC and the Section 10/404 permit decision have been impacted. To allow for additional time to review the updated project plans, it is reasonable that the USACE environmental analysis and Section 10/404 permit decision need to be extended.

V. Determination

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

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Emily Domenech
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