



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

September 18, 2026

Seminole Pumped Storage Project Project

I. Summary

The Seminole Pumped Storage Project (Project), sponsored by rPlus Hydro (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 Federal Energy Regulatory Commission (FERC), 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 FERC the lead agency for both NEPA and FAST-41. The cooperating agencies are the Bureau of Land Management (BLM), the Bureau of Reclamation (BOR), the United States Fish and Wildlife Service (USFWS), the United States Army Corps of Engineers (USACE) and the Department of Energy, Western Area Power Administration (WAPA).

FERC 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 timetable¹ for a permit decision under Section 404 of the Clean Water Act (Section 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:

¹ Pursuant to the FAST-41 savings and limitations clauses at 42 U.S.C. §§ 4370m-6(d)(1) and 4370m-6(e)(2), respectively, in light of FERC's regulations preventing disclosure of the nature and timing of proposed actions by the Commission (18 C.F.R. § 3c.2(b)), FERC is not required to obtain Executive Director authorization to modify its own completion dates on a FAST-41 permitting timetable. However, cooperating agency completion dates that are affected by FERC's permitting timetable changes remain subject to the FAST-41 completion date modification provisions. Accordingly, pursuant to 42 U.S.C. § 4370m-2(c)(2)(D)(i)(iv), FERC requests Executive Director authorization of proposed modifications to cooperating agencies' completion dates on projects for which FERC is the facilitating or lead agency.

- (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

FERC seeks authorization to modify the completion date shown in the table below:

Action Agency	Action	Milestone	Original Date	Current Date	Requested Date
USACE	Section 404	Final Verification / Permit Decision Rendered	12/23/2024	10/19/2026	11/22/2027

On September 16, 2026, FERC updated the final NEPA milestone, for the record of decision (ROD), by extending the ROD milestone by just over 13 months to October 21, 2027. The reason for that shift was described in a Notice of Intent issued by FERC on September 11, 2026: BLM requires additional environmental analysis to support its decision on a Resource Management Plan amendment and right-of-way authorization for the project. Therefore, BLM, in cooperation with FERC, intends to prepare draft and final supplemental EIS documents, culminating in publication on July 16, 2027 of the final EIS. Accordingly, the target date for the issuance of the ROD was revised from September 17, 2026 to October 21, 2027.

Because USACE's Section 404 permit decision is dependent on execution of FERC's ROD, USACE has requested to move their Section 404 Final Verification/Permit Decision Rendered milestone date to 30 days after the ROD.

Consultation with Project Sponsor on Permitting Timetable Modifications

FERC 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 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 specific USACE permitting timetable modification, but continues to object to extended NEPA analysis that led to the modification of the USACE milestone.

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), the first factor 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. The NEPA process was recently extended to allow further evaluation of the complex natural resource considerations within the project area. As FERC and BLM work together to fully evaluate potential environmental impacts from the proposed project, it is necessary for USACE to understand the extent of the proposed impacts to ensure that the resulting analysis satisfies USACE's NEPA requirements. Given these circumstances, the completion date modification is warranted.

V. Determination

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



Emily Domenech
Executive Director
Permitting Council