

Written Testimony to the Committee on Homeland Security and Governmental Affairs hearing "Oversight of the Permitting Council: Improving Transparency and Coordination" on July, 10 2024

United States Senate

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Introduction

Chairman Peters, Ranking Member Paul, and distinguished Members of the Committee, thank you for the opportunity to testify before you today about the work of the Federal Permitting Improvement Steering Council (Permitting Council). My name is Eric Beightel, and I am the Executive Director of the Permitting Council, appointed by President Biden in July of 2023. I come to this role with nearly 25 years of experience in developing and implementing federal policy regarding the environmental review and permitting of large, complex infrastructure projects. I am honored to testify here today because I am passionate about making our federal permitting processes more effective, enabling the efficient and responsible development of critical infrastructure and delivering that infrastructure for the good of the American people.

Permitting Council Background

Congress created the Permitting Council in 2015 through Title 41 of the "Fixing America's Surface Transportation Act," (FAST-41) and tasked it with providing targeted permitting assistance to certain infrastructure projects that seek coverage under the FAST-41 program, which is detailed below. Under FAST-41, project sponsors seek coverage of infrastructure projects to gain the benefits of enhanced coordination, transparency, and predictability in the federal permitting process.

In 2021, through the "Infrastructure Investment and Jobs Act" (IIJA), or "Bipartisan Infrastructure Law" ("BIL"), Congress recognized the value of the Permitting Council

by eliminating the sunset clause to make the agency a permanent federal agency, reaffirming the importance of its mission. As Executive Director, I lead the agency's efforts to implement the FAST-41 statute. Under the FAST-41 program, the Permitting Council facilitates enhanced coordination among federal agencies engaged on infrastructure projects across the eighteen FAST-41 sectors. The Permitting Council publicly posts permitting timetables for each covered project, and tracks agency progress towards permitting milestones. Under BIL, Congress also identified the Permitting Council as a federal center for permitting excellence, providing resources and tools that will advance permitting improvements across government.

In addition to leading the agency, as Executive Director, I chair the Permitting Council, which is composed of Deputy Secretary or equivalent representatives from thirteen federal agencies, as well as the Director of the Office of Management and Budget and the Chair of the Council on Environmental Quality. As chair of the Permitting Council, I convene meetings with Permitting Council members to discuss permitting policy, facilitate focused discussions on emerging issues at the project and programmatic level, and evaluate the effectiveness of FAST-41 implementation, including expenditures from FAST-41's Environmental Review Improvement Fund (ERIF). All of these efforts are in furtherance of improving federal permitting to accelerate delivery of critical infrastructure projects.

The Permitting Council Mission and Outcomes

The Permitting Council was created to address the concern that the federal permitting process is uncoordinated and lacking transparency, leaving important projects mired in avoidable delays. Our work at the Permitting Council makes federal permitting and environmental review more efficient and predictable, accelerates delivery of infrastructure projects, while providing predictability and timeliness for project sponsors and stakeholders. We work closely with the Permitting Council members and their respective agencies along with the Council on Environmental Quality (CEQ) and the Office of Management and Budget in coordinating the Federal permitting process for a portfolio of nearly \$75 billion in large-scale infrastructure projects. Currently, the majority of projects in the FAST-41 portfolio are renewable energy, along with broadband, electric transmission, ports and other project types. We also support the development and implementation of Administration permitting

priorities including President Biden's Permitting Action Plan, CEQ's Bipartisan Permitting Reform Implementation Rule, and the Department of Energy's Coordinated Interagency Transmission Authorizations and Permits Rule.

Recognizing the unique role of the Permitting Council in promoting better outcomes of the Federal environmental review and permitting process, Congress provided \$350 million in the Inflation Reduction Act (IRA) for the agency's ERIF. We have coordinated with agencies represented on the Permitting Council to leverage that funding to make targeted investments in staff capacity and information technology. These investments are helping to address obstacles to permitting efficiency and to accelerate permitting across multiple sectors while also improving transparency and outcomes. We've also launched a Tribal Assistance Program that provides much needed resources to Tribes to actively engage on FAST-41 covered projects, which is discussed in detail below.

The benefits of this work can be seen in the numbers. The Biden-Harris Administration has issued Records of Decision (RODs) on nine commercial-scale offshore wind projects standing up a new job-creating industry and making significant progress towards the President's goal of responsibly deploying 30 gigawatts of offshore wind in the United States by 2030. These nine projects total more than 13 gigawatts of offshore wind energy, enough to power nearly five million homes. Eight other FAST-41 covered offshore wind projects are currently undergoing environmental review, representing an additional 13 GW of renewable energy. I am proud of the work that my team has done to support the Bureau of Ocean Energy Management, the lead federal agency for the siting, leasing, and permitting of offshore wind activities, and the other permitting agencies that are driving forward the offshore wind sector while maintaining high standards.

Our nation's clean energy goals are ambitious yet essential to combat the challenges of climate change. In order to meet the moment, we must be able to deploy infrastructure quickly without sacrificing the quality of environmental review or shortchanging the opportunity for public input. Therefore, it is imperative to continually refine and advance the federal environmental review and approval process to deliver on the shared goal of building and delivering critical infrastructure

projects. For the projects that opt to participate in the FAST-41 program, the Permitting Council serves a key coordination and transparency role for project sponsors and the permitting agencies as they work towards meeting milestones. In so doing we help to deliver on the opportunities created by the generational investments made through BIL, the IRA, and the “Creating Helpful Incentives to Produce Semiconductors and Science Act” (CHIPS and Science Act).

It is my goal that the Permitting Council, through our work to manage permitting timetables for FAST-41 projects and our broader efforts to promote permitting excellence, will help elevate the state of the practice for infrastructure permitting across government. We measure and report our progress in these areas to Congress through quarterly and annual reports, providing details on agency performance and our strategies towards continuous improvement.

FAST-41 Coverage

Projects seeking to become a “covered project” and receive the benefits of the program must meet one of the following sets of criteria defined in the FAST-41 legislation:

- *Objective Criteria:* Minimum investment of \$200 million, subject to review under the National Environmental Policy Act (NEPA) and not eligible for abbreviated environmental review or approval under other federal laws;
- *Tribal Criteria:* Projects must be sponsored by a federally recognized Tribe, be located at least in part on Tribal lands, and be subject to NEPA;
- *Carbon Capture Criteria:* Infrastructure related to the capture, utilization, and sequestration of carbon dioxide emissions; or
- *Discretionary Criteria:* Projects requiring NEPA reviews that are of the size and complexity which, in the opinion of the Council, make the project likely to benefit from FAST-41 coverage.

The vast majority of FAST-41 covered projects meet the objective criteria. It is notable that there are now three broadband projects in our portfolio that qualified for coverage under the Tribal criteria and the agency is in discussions with potential carbon capture project sponsors. Importantly, the procedures in FAST-41 and the duties of the Permitting Council do not elevate speed over the deliberation that is

necessary to deliver excellent environmental, economic, and community outcomes. Instead, we maintain consistent, open communication with agency officials and the project sponsors to monitor progress, identify emerging risks to project schedules and proactively mitigate against those risks.

Importantly, the approach taken by the Permitting Council under FAST-41 does not rely solely on deadlines to accelerate the Federal environmental review and authorization process, but rather enables and promotes efficient analysis and deliberation. This is not to say that speed is not part of the FAST-41 process. Once a qualifying project submits a FAST-41 Initiation Notice, I work with the lead agency to confirm FAST-41 coverage within fourteen days. Once a project is covered, the lead agency in coordination with the project sponsor and federal permitting agencies will develop a Coordinated Project Plan, which includes the permitting timetable, within 60 days. That means that once a qualifying application is submitted, a covered project will have a project plan and a publicly posted Dashboard project schedule within three months.

Projects in the FAST-41 portfolio typically face complex logistics to complete permitting. Many of our projects require multiple authorizations from numerous Federal agencies, apart from authorizations that may be required from state agencies and Tribal nations. The Executive Director is responsible for monitoring each project's permitting timetable on the Dashboard, assessing agency compliance with FAST-41 permitting timetable management requirements, ensuring quick elevation of permitting timetable issues, and rendering administrative decisions on project coverage under FAST-41 as well as certain extensions of FAST-41 permitting timetables.

FAST-41 does not alter any substantive statutory or regulatory requirement, environmental law, regulation, review process, or public involvement procedure, including the requirements of the National Environmental Policy Act (NEPA). FAST-41 also does not predetermine the outcome of any Federal decision-making process or move projects up in any Federal permitting "queue." Instead, the FAST-41 process requires active project management of covered projects with focused attention by agency leadership on the progress towards permitting milestones. This heightened

focus, public transparency, and accountability promote a more predictable and efficient process.

Recent Permitting Council Accomplishments

Our Annual Report to Congress, delivered on April 15th each year, highlights many of our recent accomplishments including both our work to support FAST-41 covered projects as well as our work to improve permitting across government in our role as a center for permitting excellence. These two core functions reflect our agency's unique position within government to support the environmental reviews and authorizations necessary to build large complex projects. We continually learn from the experience of each covered project to improve our coordination with federal agency partners to identify and implement permitting best practices.

In Fiscal Year 2023, the Permitting Council proactively managed 33 projects through the FAST-41 program and saw marked improvement in the implementation of FAST-41 by the agencies, with 100% of projects developing project plans and permitting timetables on schedule, and steady improvement with required posting of information on the Permitting Dashboard. Additionally, four covered projects completed the environmental review and permitting process. Two of those projects are highlighted in more detail below.

- **SunZia Southwest Transmission Project**

The SunZia Southwest Transmission Project is an approximately 525-kilovolt high voltage direct current transmission line that will transport up to 3,000 megawatts of primarily renewable energy from New Mexico to markets in western states. The SunZia Southwest Transmission Project is connected to the SunZia Wind Project, a planned 3,500 MW renewable energy project also located in New Mexico. Together, SunZia Wind and Transmission Projects could comprise the largest renewable energy infrastructure project in U.S. history. The transmission project sought FAST-41 coverage in 2021 after years spent in the environmental review and permitting process. Once covered, the Permitting Council helped coordinate a project plan and permitting timetable that supported the completion of federal permitting in 2023 - providing certainty and transparency to the project sponsor, Tribes, and other stakeholders, along with the public.

Building off of the successful partnership with New Mexico's Renewable Energy Transmission Authority (RETA) on the SunZia project, I recently signed a Memorandum of Understanding with RETA to establish a working relationship between our agencies in order to bring FAST-41 permitting support to qualifying RETA-supported projects. This partnership will help us advance much needed transmission capacity that will deliver the growing renewable energy production in the state.

- **Mid-Barataria Sediment Diversion Project**

The Mid-Barataria Sediment Diversion Project focuses on restoring Louisiana's coastline, which is experiencing some of the highest levels of land loss in the country. The project will reconnect the Mississippi River to its wetlands, depositing sediment to build up eroded areas. Ultimately, this will protect some of the most vulnerable residents in the state, in addition to sustaining the ecosystem and wildlife in the area, which is also one of the areas most affected by the 2010 Deepwater Horizon oil spill. The Permitting Council supported cross-agency coordination with federal and state partners to drive this project to completion, and I was proud to attend the groundbreaking with then-Governor of Louisiana, John Bel Edwards, state legislative representatives, and other officials.

FAST-41 Tribal Projects

The Santa Fe Indian School Broadband Project is the first Tribal-sponsored FAST-41 covered project and also the first FAST-41 broadband project. It will enable participation in the digital economy and provide last-mile internet access to homes and anchor institutions and Tribal businesses. The Pueblo Education Network, of which this project is a component, also creates a private network connecting Tribal schools and libraries to national research and education networks, modernizing Indian education in the global information age. The project stretches nearly 324 miles, originating in Albuquerque, New Mexico, and traveling through Isleta Pueblo, Acoma Pueblo, and Zuni Pueblo lands.

Following the Santa Fe Indian School Broadband Project, the Permitting Council added the Alaska Fiber-Optic Project, another Tribal broadband project, as a covered project. The Alaska FiberOptic Project proposes to deploy a reliable, affordable, scalable and future-proofed broadband network. If approved and constructed, the project will bridge the digital divide in one of the most remote, isolated, high-cost, and difficult to serve areas of the United States. The Alaska Fiber-Optic Project Segment 1 is one of three phases that includes constructing a middle mile fiber optic network directly supporting last mile high-speed Internet connections to twenty-three Alaskan Native Villages along the Yukon River, connecting 581 unserved Native American households with fiber-to-the-home 1 Gbps service where approximately 51% of the households live at or below the poverty line.

The Winnebago Tribe Broadband Connectivity Project was the most recent Tribal project to obtain FAST-41 coverage. This project will construct a multi-conduit, underground Fiber to the Premises system, totaling more than two hundred thirty-five miles. Once completed, this project will connect every household and business, including medical facilities and schools, within the Winnebago reservation - eight hundred eighty-six households and forty-six businesses and organizations - to high-quality internet capability.

These Tribal broadband projects, all of which have the National Telecommunications and Information Administration as their lead federal agency, will receive focused permitting project management support and, if constructed, will provide essential service to Tribal communities. I am encouraged by the interest in FAST-41 that Tribal project sponsors have shown, and we are making Tribal outreach a priority to continue to grow our portfolio of Tribally led projects.

Additional Project Highlights

- **South32 Hermosa**

The first critical minerals mining project added to the FAST-41 portfolio is the \$1.7 billion South32 Hermosa project with the U.S. Forest Service as the lead agency. If permitted, the proposed zinc and manganese mining and processing operation could play a key role in the electric vehicle and stationary storage battery supply

chain. The project sponsor proposes to construct a small-footprint, underground mining operation applying low-carbon design and best-in-class engineering principles. Part of the Hermosa project area will involve subsurface and surface disturbance of lands within the Coronado National Forest in Arizona.

- **Coastal Virginia Offshore Wind (CVOW)**

CVOW is a 2.6-gigawatt offshore wind project consisting of 176 wind turbines twenty-seven miles off the coast of Virginia Beach and developed by Dominion Energy, with the Bureau of Ocean Energy Management (BOEM) serving as lead agency. The project, which completed all permitting under FAST-41, is currently under construction and is expected to create 900 direct and indirect jobs annually during the construction phase. Once operational, Dominion Energy projects that it will avoid carbon dioxide emissions equivalent to removing more than 1 million cars off the road each year and power over 900,000 homes.

- **Revolution Wind**

The Revolution Wind project received FAST-41 coverage in July 2020 and completed permitting in November 2023, with BOEM as the lead agency. This project, developed by Revolution Wind, LLC as a joint venture of parent companies Ørsted and Eversource, will bring 704 MW of clean energy to Connecticut and Rhode Island, generating enough energy to power more than 250,000 homes. When operational, it will bring 304 MW of clean energy to Connecticut and 400 MW to Rhode Island, displacing more than one million metric tons of carbon pollution-- equivalent to taking over 150,000 cars off the road.

- **Sunrise Wind**

Sunrise Wind will construct, operate and maintain an offshore wind farm located approximately 30 miles east of Montauk, New York. The project, a 50/50 partnership between Ørsted and Eversource, will have up to 84 wind turbine generators and a total capacity of 924 megawatts of clean, renewable energy that BOEM estimates could power more than 320,000 homes per year. The project will support more than 800 direct jobs each year during the construction phase and about 300 jobs annually during the operations phase. The Sunrise Wind project completed the FAST-41 process on June 21, 2024.

- **Sparrows Point**

The Sparrows Point Container Terminal is expected to bring thousands of jobs to the Baltimore area as it expands the Port of Baltimore service for the Mediterranean Shipping Company, the world's largest container carrier company. At full build-out, the project will double the size of the Port of Baltimore, positioning the port as a leading top-tier facility on the eastern seaboard. This project will improve supply-chain resilience and economic competitiveness for the United States.

Advancing Permitting Excellence

The BIL identified the Permitting Council as a federal center for permitting excellence. This role is executed by identifying, developing and implementing smart permitting practices, creating templates and tools to increase permitting efficiency, providing key resources to agencies to increase capacity and reduce bottlenecks, promote timely decision making, improve interagency coordination, promote meaningful stakeholder engagement and invest in data management and tracking tools.

As mentioned above, with the passage of the BIL, IRA, and the CHIPS and Science Act, the permitting community is reacting to significant new investments into our nation's infrastructure, requiring the allocation of substantial resources toward Federal permitting. The ERIF makes funds available to the Executive Director to implement FAST-41 and support the role of the Permitting Council as a Federal center for permitting excellence. FAST-41 authorizes the Executive Director to transfer funds from the ERIF to other Federal agencies, and state, local, and Tribal governments, to facilitate timely and efficient environmental reviews and authorizations for FAST-41 projects.

We have leveraged the \$350 million from the IRA to make targeted investments at federal agencies and Tribes that will help to improve permitting efficiency. These investments will bolster agency permitting capacity, support information technology tools and strategies to bring federal permitting into the 21st century. We also created a first-of-its-kind ERIF Tribal Assistance Program (TAP) to provide direct financial assistance to Tribes that are directly engaged in the underlying environmental review and permitting processes of FAST-41 covered projects.

- **Agency Capacity Building**

To date we have provided nearly \$165 million to federal agencies for capacity building which will help increase the efficiency and effectiveness of environmental reviews and authorizations of infrastructure. From hiring permitting experts to acquiring vital tools and resources, the funding will allow agencies to take significant steps to bolster their ability to meet review timelines and advance the predictability of decision timing for critically needed infrastructure across the nation. The funds are allocated through Interagency Agreements and support both FAST-41 covered project reviews as well as other infrastructure projects across sectors as described in FAST-41, including renewable energy, broadband, semiconductor fabrication, and electricity transmission. Funds will also be used to facilitate consultation and community engagement, and in the creation of tools, technology and data to support long-term benefits in multiple sectors.

- **Tribal Assistance Program**

In November of last year, we announced the creation of the ERIF TAP with an initial \$5 million allocation. The program provides funds to support Tribal engagement in the underlying environmental review and permitting of FAST-41 covered projects. Recognizing the unfair burden and capacity issues many Tribal Nations face when engaging in the Federal permitting process, we created the TAP to address those constraints. Eligible Tribes can use TAP funds to access critically needed resources to help fulfill their responsibilities in the federal review and approval process for FAST-41 covered projects. The use of these funds will help ensure that Tribal representatives have a more meaningful and effective seat at the table when consulting on potential effects to Tribal lands and interests.

Two Tribes—the Mashpee Wampanoag and the Munsee-Stockbridge Community—have sought funding under the TAP, and we have awarded nearly \$1.2 million between the two Tribes. We continue to promote the program and are seeing increased interest among potential participants in the program.

- **Information Technology Tools and Resources**

In April of this year, we announced an initial investment of over \$30 million of ERIF resources allocated to federal agencies to enhance permitting efficiency through

information technology and tools. With these investments, agencies will be able to build critical IT tools and invest in innovative technologies that will bring the federal permitting process into the 21st Century. As of the date of this testimony, the funding supports 13 projects in 11 different federal agencies. The funding will support agencies to incorporate new technology into permitting processes from artificial intelligence and Geographic Information Systems to online applicant portals and innovative data sharing systems. These investments will accelerate and spur innovation in environmental permitting across the federal government through 1) technology to automate processes for routine actions, improving public transparency and saving time, 2) new tools to ease the management of complex workstreams and improve data quality for better coordination, analysis and decision making, and 3) leveraging cutting-edge technologies to save time and improve outcomes.

Permitting Council Priorities

The Permitting Council has accomplished much since FAST-41 was enacted and we are poised for additional progress in the coming years as we continue to build agency capacity and leverage lessons learned from our work. Looking ahead, I am committed to delivering on our mission to deliver critical infrastructure projects and advance permitting excellence through several key priorities.

1. Continuing to build a strong foundation for the Permitting Council as an agency

With the agency only recently made permanent through the BIL, there remains important internally focused work that must be completed and capacity achieved to support effective implementation of FAST-41. We continue to focus on our workforce and develop expertise to efficiently support the projects in our portfolio and perform essential agency functions. In addition to focusing internally, we are also focusing our efforts externally to raise awareness of FAST-41 and describe the benefits of FAST-41 coverage to new project sponsors across eligible sectors. Our external focus doesn't end with project sponsors and necessarily extends to state, Tribal, and local governments as well. Considering our new partnership with New Mexico's RETA, I hope to engage more states to build similar relationships, potentially extending FAST-41 benefits of transparency and accountability to state approvals as well.

2. Administering and Overseeing the ERIF Assistance Program

With the investments made in the agencies to develop capacity and to create and implement IT tools to support permitting efficiency, we have a responsibility to monitor and support those investments to maximize their benefits. We are accomplishing this through regular coordination points with agencies and the White House to identify and mitigate emerging challenges in hiring and procurement. We will also continue to aggressively promote the funds available through the ERIF TAP so that Tribes engaged in FAST-41 projects avail themselves of the resources to support their efforts.

3. Tracking and Reporting on Permitting Performance

As part of our role overseeing the expenditure of ERIF funds, we must monitor and measure the effect of the investments in improving permitting efficiency. In addition to those efforts, we are looking across the historic FAST-41 portfolio to identify trends, common challenges and strategies to apply to future projects. We are also increasing the scope of reporting on active FAST-41 projects to provide a more complete picture on how agencies are performing against the permitting timetables for covered projects.

4. Continuing to Foster Permitting Excellence Across Government

A key strategy to elevate the state of the permitting practice is to provide appropriate and adequate training to those staff who are engaged in the environmental review and permitting of infrastructure projects. This is why I am proud to provide resources to agencies to send key staff to essential training to build project management skills, and refresh or strengthen understanding of and compliance with NEPA, National Historic Preservation Act Section 106 and other environmental laws. Also, through our reporting on FAST-41 performance, we identify permitting best practices that help promote more timely and efficient environmental reviews and permitting decisions. Lessons learned from the FAST-41 portfolio can apply more broadly across agencies and sectors. We will leverage the Permitting Council members and their agencies to continue to promote those strategies beyond our covered projects.

Conclusion

Thank you, once again, for this opportunity to testify before you today. As we approach ten years since the creation of the Permitting Council and the end of my first year as the Executive Director, we can take great pride in the work of the Permitting Council to date. However, we will continue to build on our accomplishments to support more effective, efficient, and transparent permitting. I look forward to continuing to work with the Committee to improve the federal environmental review and permitting process for infrastructure projects and to deliver on the goals of the Permitting Council and benefits of infrastructure investments for the American people.