



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

October 10, 2025

Hell's Kitchen

I. Summary

The Hell's Kitchen Critical Minerals & Power Project (Hell's Kitchen), sponsored by Controlled Thermal Resources (the Applicant or 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 environmental review of the Project under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, which makes USACE the lead agency for both NEPA and FAST-41.

USACE submitted a request to the Federal Permitting Improvement Steering Council (Permitting Council) Executive Director to extend the intermediate and final milestones for multiple actions on the Project's permitting timetable. This includes modifications for the following actions:

- USACE's environmental review under NEPA;
- USACE's permit decision under Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403 and Section 404 of the Clean Water Act, 33 U.S.C. § 1344 (together, Section 10/404);
- USACE's consultation under Section 106 of the National Historic Preservation Act (Section 106), 54 U.S.C. § 306108; and
- USACE's consultation with the United States Department of the Interior, Fish and Wildlife Service (FWS) under the Endangered Species Act (ESA), 16 U.S.C. §§ 1531.

This is USACE's first request to extend completion dates on the Project's permitting timetable. For the following reasons, USACE'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

On behalf of the project sponsor, USACE submitted a request to modify the completion dates shown in the table immediately below. This revised schedule is necessary to accommodate the Applicant's submission of new information and a change in the project scope that increased the project footprint and increased proposed impacts to aquatic resources.

The Applicant recently proposed changes to the project including construction of a new permanent access road, well pad, and injection well in an entirely new footprint, resulting in the loss of approximately 12 additional acres of aquatic resources. USACE must thoroughly evaluate and address the new activities, including the potential associated impacts on federally listed species, proposed compensatory mitigation, and evaluation of cultural and tribal resources.

Additionally, since the Applicant substantially modified the reasonably foreseeable impacts to aquatic resources from those described in the original public notice, USACE determined a new public notice is necessary for proper evaluation of the proposal. To complete the public notice, USACE requested additional information required by regulation. The Applicant stated they will provide the information on November 5, 2025. Once received and determined complete, USACE will issue a public notice describing the modified proposal.

Action Agency	Action	Milestone	Current Date	Requested Date
USACE	NEPA	Determination to prepare an EA	8/30/2023	No change
		Issuance of Final EA	9/1/2026	11/20/2026
		EA Process Concluded	9/1/2026	11/20/2026



	Section 106	Consultation initiated with SHPO/THPO	4/15/2024	No change
		Section 106 consultation concluded	7/15/2026	9/15/2026
	Section 10/404	Pre-construction Notification (PCN)/Form ENG 4345/Joint Application Form Received	12/1/2022	No change
		Complete PCN/application received	8/30/2023	No change
		Publication of public notice	9/11/2023	No change
		Complete New Information provided by Applicant	11/5/2025	This is a new milestone
		Completeness Determination of New Information	11/10/2025	This is a new milestone
		Publication of Public Notice	11/20/2025	This is a new milestone
		Final verification/permit decision	9/1/2026	11/20/2026
FWS	ESA	ESA consultation package is submitted	11/15/2025	1/15/2026
		FWS determines ESA package is complete - Informal	12/15/2025	2/15/2026
		ESA consultation concludes	4/30/2026	6/30/2026

The modified permitting timetable accounts for the required applicant-provided information, including but not limited to, a complete project description with proposed impacts, the Biological Assessment for ESA consultation, visual and auditory assessments and updated permit area information for the Section 106 consultation, the mitigation plan, and the monitoring and adaptive management plan (MAM plan) for USACE evaluation and agency consultations. The modified permitting timetable extends most milestones by approximately 60 days and adds intermediate milestones to USACE's Section 10/404 action to provide transparency regarding the review of the new information.

Consultation with Project Sponsor on Extension Requests

USACE consulted with all cooperating agencies on the modified permitting schedule and received written concurrence from the agencies.

Prior to submitting an extension request to the Executive Director, USACE consulted with the Project Sponsor per 42 U.S.C. § 4370m-2(c)(2)(D)(i)(I) and represents that the Project Sponsor accepts the proposed permitting timetable extension.

The Executive Director also consulted with the Project Sponsor, as required by 42 U.S.C. § 4370m-2(c)(2)(D)(i)(IV), and similarly found that the Project Sponsor does not object to the requested permitting timetable modification.

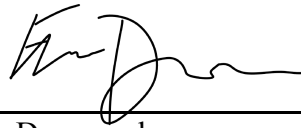


IV. Discussion

The primary driver of the timetable modification for this Project is to provide the relevant agencies additional time to review and analyze substantial proposed changes to the project scope and footprint, submitted by the Project Sponsor after the original timeline had been set. All proposed date shifts were mutually agreed upon by all impacted agencies and the Project Sponsor after coordination. Given these circumstances, extending the completion dates addressed in this Executive Director Determination is warranted.

V. Determination

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



Emily Domenech
Executive Director
Federal Permitting Improvement Steering Council

