



PERMITTING COUNCIL

Transparency • Efficiency • Accountability

Written Testimony to the Committee on Environment and Public Works Legislative Hearing on Federal Actions to Improve Project Reviews For a Cleaner and Stronger Economy

U.S. Senate

Christine Harada

Executive Director, Federal Permitting Improvement Steering Council

May 17, 2023

Thank you, Chairman Carper and Ranking Member Capito, and the honorable members of the Committee, for the opportunity to testify today. My name is Christine Harada, and I am the Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council, or FPISC). I was appointed as the Executive Director of the Permitting Council in July 2021. I come to this role with extensive experience in the private sector, including renewable energy development, impact investing, management consulting, and aerospace engineering.

In particular, I would like to take the opportunity to once again express my gratitude to Chairman Carper and Ranking Member Capito for your leadership in managing the Infrastructure Investment and Jobs Act (IIJA).¹ Although the Committee on Homeland Security and Governmental Affairs holds jurisdiction over the Permitting Council, it was your interest, leadership, and commitment that enabled the passage of the provisions that ensure the American public and economy will permanently benefit from the transparency, accountability, and certainty FAST-41 brings to the Federal environmental review and authorization process.

With the passage of IIJA, the Inflation Reduction Act,² and the CHIPS and Science Act,³ the United States is making generational investments in our infrastructure and competitiveness that will create good-paying union jobs, grow our economy, invest in communities, combat climate change, and conserve and restore the natural places we value. Under President Biden, companies have announced over \$470 billion in investments in the United States. That includes over \$200 billion in semiconductor manufacturing; over \$225 billion in clean energy, electric vehicle and battery investments; and about \$15 billion in biomanufacturing investments.

¹ Pub. L. 117-58, 135 Stat. 429 (Nov. 15, 2021).

² Pub. L. 117-169, 136 Stat. 1818 (Aug. 16, 2022).

³ Pub. L. 117-167, 136 Stat 1366 (Aug. 9, 2022).

President Biden has been, and continues to be, very clear on his principles for building our nation’s infrastructure and securing America’s future—we must address our climate goals; engage communities; and provide certainty and predictability for developers.

As the Executive Director of the Permitting Council, I work closely with the thirteen Permitting Council member agencies and the White House in coordinating the Federal permitting process for a portfolio of nearly \$100 billion⁴ in large-scale infrastructure projects—most of which are renewable energy, coastal restoration, and electricity transmission projects.

What the Permitting Council Is, and What It Does

As the Executive Director of the Permitting Council, my goal is to make the United States the most attractive market for infrastructure investment. This means increased consistency in project delivery; reduced litigation risk; clearer regulatory requirements; and enhanced predictability, accountability, and certainty in permitting processes. Together with the Permitting Council members, we work to deliver successful infrastructure projects—those that are economically and environmentally sustainable and achieve consensus with and benefit impacted communities and Tribal nations.

FAST-41 seeks to achieve expedited permitting timeframes largely through improved project management, communication, and public disclosure protocols. Notably, 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. I also transfer funds to agencies to increase the efficiency and effectiveness of the permitting process by alleviating resource constraints. This differentiates FAST-41 and the Permitting Council from other streamlining efforts that sometimes seek to achieve speed, rather than efficient deliberation, through the imposition of arbitrary deadlines, truncated analyses, and penalties.

In collaboration with my team and the Permitting Council agencies, I manage each project’s permitting timetable on the Dashboard; assess agency compliance with FAST-41 permitting timetable management requirements; mediate disputes with respect to permitting timetables; ensure quick elevation of timetable management issues to the appropriate Federal decision-makers; and render administrative decisions on project coverage under FAST-41 and certain extensions of FAST-41 permitting timetables. It is worth noting the complex logistics involved in permitting significant infrastructure projects such as those in the FAST-41 project portfolio. Many of our projects require twelve or more authorizations from at least six different Federal

⁴ This reflects solely direct capital investment value and does not include indirect, induced, or fiscal impacts.

agencies, apart from dozens more authorizations that may be required from state agencies and Tribal nations.

It is important to highlight that 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 helps agencies achieve consensus on methodologies to inform analyses and develop more programmatic approaches to analyzing and resolving common project permitting issues.

With the passage of the IJA in November 2021, and under this Committee’s leadership as noted above, Congress reaffirmed its commitment to the Permitting Council’s mission by making the Permitting Council a permanent Federal agency. In the following nine months, Congress twice again acted in support of the Permitting Council mission—first, by appropriating \$350 million in Inflation Reduction Act (IRA) funding; and second, by extending FAST-41 benefits to six additional technology-based sectors, including semiconductors and artificial intelligence.⁵

The Permitting Council additionally functions as a center for permitting excellence by creating template recommended performance schedules for each FAST-41 sector; establishing and implementing best practices for conducting environmental reviews and authorizations for infrastructure projects; redirecting resources as needed to resolve permitting bottlenecks for FAST-41 projects; providing capacity to state stakeholders and Tribal nations involved in the review and authorization of infrastructure projects; and fostering intergovernmental cooperation and engagement with industry to develop more efficient, transparent, and efficacious processes for reviewing and permitting infrastructure.

The Permitting Council’s Recent Accomplishments

The Permitting Council’s accomplishments can be articulated both quantitatively and qualitatively. Quantitatively, there is strong evidence that the program improves predictability and transparency. Agencies use the Permitting Dashboard and meet the majority of their posted completion dates. Additionally, the predictability of project permitting timelines is improving. In our Q1 2022 Quarterly Agency Performance Report, we reported that where it used to be fairly common for agencies to miss permitting milestones, now, agencies clearly are taking a more active role in managing their permitting timetables, and instances of “missed” dates have significantly decreased. In FY2021, agencies modified 50 milestones for covered projects, but only 7 of these changes were attributable to Federal government factors (internal or interagency

⁵ S. 3451, Pub. L. No. 117-173, 136 Stat. 2103 (Aug. 16, 2022).

actions); the majority of modifications were driven by the project sponsor. President Biden’s proposal to establish clear information submission deadlines for all project developers to submit data required for federal agency reviews and decision-making should be helpful to address such permitting delays.

Qualitatively, many project sponsors—both of completed projects and those still in-process—have provided anecdotes and data points on the value provided by FAST-41. One indicator of the Permitting Council’s success is the number of “repeat customers.” For example, Arevia Solar, a developer of the (then) largest renewable energy project Gemini Solar, has sought coverage for additional projects due to the level of schedule transparency, accountability, and coordination among the multiple Federal and state agencies that FAST-41 provides. Similarly, Dominion Energy and Pattern Energy recently expressed great satisfaction with—and reliance on—the Permitting Council to provide certainty and transparency to their offshore wind and electricity transmission project permitting timetables, respectively. This is particularly notable because certainty and transparency are often cited by project proponents as the biggest barriers to securing financing for their projects.

The Permitting Council’s Annual Report to Congress,⁶ submitted in April 2023, details the recent accomplishments by the Permitting Council in implementing FAST-41 over the last year. Some important highlights include the following:

1. Providing training and tools to enhance transparency and engagement with Tribal governments;
2. Improving deployment of energy infrastructure, transmission, energy production;
3. Positioning the Permitting Council as the center for permitting excellence for the Federal government and as a model to state governments; and
4. Providing clear guidance to agencies on best permitting practices and how they can better comply with the requirements of FAST-41.

Project Permitting

Since its inception, the Permitting Council has facilitated processes that resulted in successful permitting for 31 projects, reflecting an estimated direct capital investment value of over \$160 billion.⁷ In the past year, four major FAST-41-covered infrastructure projects completed the permitting process.

Building on the significant investments in clean energy manufacturing and generation and the electrification of homes, businesses, and vehicles made by the IIJA, the **Ten West Link**

⁶ <https://www.permits.performance.gov/fpisc-content/reports-and-publications>.

⁷ Estimated values based on project sponsor reporting and media reports.

Transmission Line exemplifies the kind of FAST-41 transmission line projects that not only will bolster our electric transmission system to reduce the prices consumers pay for electricity but also will enhance U.S. energy security and the reliability and resilience of our electrical grid by limiting vulnerability to local events. The **Ten West Link Transmission Line** project is a 125-mile, 500-kilovolt transmission line that had the benefit of a coordinated and transparent environmental review and authorization process overseen by the Permitting Council. Expected to be operational by the end of 2023, this \$280 million FAST-41 covered project is projected to be a renewable energy game-changer in the west. It will modernize the energy infrastructure for millions across Arizona and California and is anticipated to create 160 temporary jobs and several permanent jobs.

Similarly, the Biden-Harris Administration used the FAST-41 process to quickly complete permitting for the **South Fork Wind** project by using informative permitting and environmental reviews guided by science to deliver positive results for our environment, our communities, and our economy. This 132-megawatt offshore wind farm will generate enough clean energy to power 70,000 homes in New York. The project represents \$740 million in economic investment and more than 1800 jobs. South Fork Wind is the first of 16 FAST-41 covered projects in the U.S. offshore wind sector that are on track to complete the environmental review and authorization process during the Biden administration.

The **Mid-Barataria Sediment Diversion** is a \$2.5 billion complex civil works and ecosystem restoration project. This project is a crucial first step in turning the tide on Louisiana's land loss crisis and protecting vulnerable communities from hurricanes and sea-level rise, while also ensuring the long-term health of the ecosystem and wildlife in the face of a changing climate and coast. Federal agencies worked steadfastly with the State of Louisiana to conclude the permitting process and bring to fruition infrastructure that will ultimately protect some of the most vulnerable residents in the state, in addition to sustaining the ecosystem and wildlife on the coast.

The **Alaska LNG Project** is a \$38 billion effort, comprising a liquefied natural gas (LNG) terminal in southcentral Alaska designed to produce up to 20 million metric tons per annum of LNG; an approximately 807-mile gas pipeline; a gas treatment plant (GTP); and an approximately 63-mile gas transmission line connecting the GTP to the gas production facility. Using clean, energy-efficient, and safe production methods, this project will provide Alaskans with a stable, long-term, and affordable source of natural gas for home heating, power generation, and industrial needs.

FAST-41 supports President Biden's Investing in America agenda by enabling the swift, thoughtful, and effective permitting and environmental reviews required to rebuild our nation's infrastructure and create a clean energy economy. Indeed, since Congress acted to make the Permitting Council permanent, we have seen renewed and increased interest in FAST-41 project

coverage, particularly in the renewable energy, electricity transmission, carbon capture, critical minerals, and broadband sectors. Recent project additions to our portfolio include:

The **Santa Fe Indian School Broadband Project** will build a middle mile broadband infrastructure for Tribes, enabling digital economy participation and effectuating last-mile internet access to homes and anchor institutions and Tribal businesses, and will modernize Indian Education in the global information age. The overall footprint is approximately 324 miles. The fiber path will travel through private, Bureau of Land Management, U.S. Forest Service, New Mexico State Land Office, Navajo Nation lands at Ramah, and Zuni Pueblo lands.

The **Alaska FiberOptic Project Segment 1** proposes to deploy a reliable, affordable, scalable, and future-proofed broadband network bridging the digital divide for the foreseeable future in one of the most remote, isolated, high-cost, and difficult to serve areas of the United States. This effort is one phase of a 3-phase project that includes constructing a middle mile fiber optic network (underwater and on land) that directly supports last mile high-speed Internet connections to 23 Alaskan Native Villages along the Yukon River.

The South32 Hermosa Critical Minerals project is a proposed zinc and manganese mining and processing operation in an historic mining district in Santa Cruz County, AZ, near the US-Mexico border. The South32 Hermosa project sponsor proposes to construct a small-footprint, underground mining operation applying low-carbon design and best-in-class engineering principles. Zinc and manganese are both designated critical minerals by the U.S. Geological Survey. President Biden has identified manganese as one of five strategic and critical minerals and authorized the Department of Defense to use its authorities under the Defense Production Act to increase domestic mining and processing necessary for the large-capacity battery supply chain.

Trends Observed by Permitting Council

Because of the Permitting Council's unique role and composition, we have the benefit of identifying, diagnosing, and resolving issues that lead to permitting delays and inefficiencies across the Federal government. It is our observation and experience that project permitting delays are attributed to three primary factors: (1) insufficient agency capacity or capability; (2) insufficient information submitted by permit applicants; and (3) impediments to effective agency and interagency coordination.

Insufficient agency capacity / capability. A large driver of permitting bottlenecks is due to insufficient agency staff capacity or other resource constraints. Many agencies have experienced a drain of talent over the past decade and do not have sufficient personnel to conduct permitting analysis (e.g., biologists, archaeologists, environmental review specialists, project management professionals, etc.), especially in various field offices. Additionally, many of the fastest growing

infrastructure sectors, such as offshore wind and semiconductor manufacturing, are novel and have required agencies to rapidly scale up staff capacity and expertise to meet the new demand. To help address this issue, the Permitting Council has provided funding support to several agencies to secure Federal employees as well as contractors. Our office has also established a flexible procurement vehicle to facilitate resource plus-ups to those infrastructure projects in need.⁸ We also have partnered with the Office of Personnel Management to improve agency hiring in support of permitting projects with initiatives focused on Direct Hire Authority, cross-agency hiring actions, and sharing hiring best practices among agencies (e.g., “pre-positioning staff,” regional hiring events).

We also have a government-wide view of the types of tools and capabilities agencies have and require to support timely permitting processes. There is a significant need to modernize agencies’ information sharing and permitting tools capabilities, and we are able to identify tools that can be leveraged across multiple agencies to help facilitate and expedite information sharing to inform permitting decisions. Better information sharing creates an opportunity to accelerate environmental reviews and authorizations simply because the information can be shared and accessed more efficiently.

Permitting Council member agencies are working to enhance permitting tools and information management systems to improve project tracking, planning, siting, and application quality. While the effort has just commenced, some areas for development or support that we are exploring include:

- Geographic Information Systems (GIS) Tools - The Permitting Council has supported an interagency working group effort to expand access to data and map-based information technology tools. There is significant opportunity to integrate the myriad GIS capabilities throughout the Federal government to better understand the impact of land-use decisions and evaluate smarter alternatives.
- Permitting Support Tools - The Permitting Council is exploring the development of permitting support tools like the National Renewable Energy Laboratory’s (NREL) Regulatory and Permitting Information Desktop (RAPID) Toolkit,⁹ which collects and organizes regulations intended to protect air and water quality, preserve wildlife habitats, prevent soil erosion, and shield valuable cultural and recreational resources. Expanding this type of capability to other sectors (e.g., offshore wind, onshore wind, renewables) would be valuable. The Permitting Council is also exploring developing tools to improve

⁸ FAST-41 Blanket Order Agreement (BOA). Specific questions related to this ordering guide/effort can be directed to FAST-41SupportBOA@gsa.gov.
<https://www.gsa.gov/buy-through-us/purchasing-programs/gsa-multiple-award-schedule/gsa-schedule-offerings/mas-categories/professional-services-category>

⁹ <https://openci.org/wiki/RAPID>.

project tracking, workflow management, interagency coordination and data sharing, and stakeholder engagement in the permitting process.

- **Digitizing Stakeholder and Community Engagement** - The pandemic provided an opportunity for normalizing the use of digital tools to engage with stakeholders as required by NEPA and other permitting actions. Developing highly interactive, web-based tools will help to reduce schedules and written pages, improve understanding, and foster better decision-making for improved outcomes. Such tools can provide multiple methods to interact with stakeholders and obtain, discuss, and record comments and input. Virtual reality and sound demonstrations, maps, video, plans, and documents can help Federal agencies better engage with all stakeholders throughout the environmental review and permitting process. Such efforts can encourage mainstream adoption of innovations and processes to reduce project delivery times and improve outcomes.

Insufficient application information quality. Many permitting delays have been due to lack of sufficient application information. This is frequently driven by communications between project sponsors and Federal agencies that are “lost in translation,” poor understanding of what permitting agencies need for their analysis, and why, and balancing those information needs with competitor dynamics amongst project sponsors. To help address this, we have hosted numerous engagement and training sessions—many in collaboration with permitting agencies—with project developers on these topics (e.g., Endangered Species Act, Marine Mammal Protection Act, undersea cabling data). Relatedly, the offshore wind sector is new for all parties involved, including project sponsors and Federal agencies. We have provided training on the offshore wind development process and supply chain to help inform Federal agencies’ analysis of reasonable alternatives.

Impediments to effective agency and interagency coordination. FAST-41 focuses heavily on minimizing delays due to low inter-agency coordination. FAST-41’s requirement to develop a comprehensive project plan within 60 days encourages the development of concurrent, rather than sequential, analyses and identifies opportunities for early and coordinated stakeholder engagement to enhance the overall efficiency and quality of the permitting process. Since its inception, the Permitting Council has identified and implemented numerous best practices to ensure that agency coordination takes place on multiple levels, including negotiating agreements with state agencies, developing programmatic agreements, and creating shared data management protocols, to name a few.¹⁰ While not a FAST-41 project, the Permitting Council was heavily engaged in assisting the state of California with its Middle Mile Broadband Initiative—a 10,000 mile network along highways. Fifteen Federal and state agencies signed an agreement to collaborate on project programmatic agreements to increase the efficiency and quality of permitting and environmental analyses, standardizing coordination and compliance procedures,

¹⁰ <https://www.permits.performance.gov/fpisc-content/reports-and-publications>.

and identifying issue escalation and resolution procedures, all with the goal of completing the permitting process for all 10,000 miles of broadband infrastructure within 18 months.

Recent academic research supports our observations and experience. In a study performed by the Stegner Center at the University of Utah that investigated 41,000 Forest Service decisions on mining projects subject to NEPA between 2004 and 2020, they found the common causes of delay in the permitting process to be: (1) insufficient agency capacity; (2) delays receiving information from permit applicants; and (3) lack of coordination during the permitting process.^{11,12} Similarly, an NREL study on hydropower licensing found that in addition to environmental complexity, insufficient coordination during the process contributed to project permitting delays.¹³

The Inflation Reduction Act provided significant funding to support the Permitting Council and several member agencies' efforts in environmental reviews and authorizations. My office is working to deploy the resources expeditiously to address these issue areas.

The Biden-Harris Permitting Action Plan

To ensure the timely and sound delivery of much-needed upgrades to America's infrastructure, in May 2022 the Biden-Harris Administration published a Permitting Action Plan to strengthen and accelerate Federal permitting and environmental reviews, fully leveraging the permitting provisions in the IIA.¹⁴ This Plan is being addressed by an all-of-government effort at the senior most levels; Cabinet officials are meeting almost weekly to work through permitting in a very hands-on manner.

The Permitting Action Plan establishes that Federal environmental review and permitting processes will be effective, efficient, and transparent to accelerate delivery of well-designed infrastructure projects and to ensure predictability and timeliness for project sponsors and stakeholders. We are committed to ensuring that the Federal environmental review and permitting process is guided by the best science, information, and complete environmental effects analysis to promote the best outcomes. We also want to ensure the process is shaped by

¹¹ Jamie Pleune & Edward Boling, *This Permit Reform Already Works. Why Aren't More Mining Projects Using It?*, 53 ELR ___ (forthcoming June 2023 at www.elr.info).

¹² John Ruple, Jamie Pleune & Erik Heiny, Evidence-Based Recommendations for Improving NEPA Implementation, 46 COLUM. J. ENV'T'L L. 273, 293-304 (2022).

¹³ Brenda M. Pracheil, Aaron L. Levine, Taylor L. Curtis, Matthew S.P. Aldrovandi, Rocío Uría-Martínez, Megan M. Johnson, Timothy Welch, Influence of project characteristics, regulatory pathways, and environmental complexity on hydropower licensing timelines in the US, *Energy Policy*, Volume 162, 2022, 112801, ISSN 0301-4215, <https://doi.org/10.1016/j.enpol.2022.112801>.

¹⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/11/fact-sheet-biden-harris-administration-releases-permitting-action-plan-to-accelerate-and-deliver-infrastructure-projects-on-time-on-task-and-on-budget/>.

early and meaningful public input, particularly from disadvantaged communities; partnership with state, territorial, and local governments; and in consultation with Tribal Nations to deliver results for all Americans.

Under the Permitting Action Plan, the Permitting Council serves as the primary interagency body to facilitate cross-cutting Federal permitting issues and opportunities across all types of infrastructure projects, not only FAST-41 covered projects. The guidance directs the Permitting Council to use its convening function to:

- Discuss strategies to foster early and improved interagency coordination on infrastructure project review and permitting;
- Provide advanced training and support for agency project managers and avenues for sharing lessons learned to improve infrastructure-related environmental review and permitting; and
- Identify and help address pressing environmental review and permitting issues, including potential schedule delays, bottlenecks, capacity and resource limitations, process challenges, and conflicts.

The Permitting Action Plan also contemplates the addition of high-priority projects to the Permitting Dashboard in the interest of transparency.¹⁵ Posting these “transparency projects” to the Dashboard will increase their visibility and enable my team and the Permitting Council to provide additional oversight, tracking, and interagency coordination for the environmental review and permitting of these projects.

President Biden has been, and continues to be, very clear on his expectations. With the investments Congress appropriated to the Permitting Council, we are able to ensure strong agency coordination and community engagement upfront to get projects permitted, concrete in the ground, steel in the ground, and boots on the ground.

Conclusion

I look forward to continuing to partner with this Committee and Congress to pass thoughtful permitting reform that brings our laws into the 21st century and puts science and people first. More than ever, with this once-in-a-generation investment in our nation’s infrastructure, our efforts to provide predictability and certainty in the Federal environmental review and authorization process is vital. Our work directly impacts the United States’ transition to a clean energy economy while providing good-paying domestic jobs and more equitable environmental and social outcomes. The FAST-41 process and the Permitting Council are well-situated to

¹⁵ 42 U.S.C. § 4370m-2(b)(2)(A)(iii).

address common causes of delay in the permitting process without compromising public engagement, analytical rigor, or environmental protections.

Thank you for the opportunity to testify today on this important matter.