Executive Order Seeks to Promote Economic Recovery by Expediting Environmental Reviews for Project Development

Monday, June 8, 2020

On June 4, 2020, President Trump issued an Executive Order (Order) to accelerate the Nation’s economic recovery from COVID-19 by expediting infrastructure investments and other activities. In general, the Order directs federal agencies and executive departments to take “all reasonable measures” to speed infrastructure investments and other actions to “strengthen the economy and return Americans to work.”

The Order directs the use of all relevant emergency and other authorities to expedite work on, and completion of, the following authorized and appropriated projects: (1) highway and other infrastructure projects within the authority of the Department of Transportation; (2) civil works projects within the authority of the Army Corps of Engineers; and (3) all infrastructure, energy, environmental, and natural resources projects on federal lands (except Indian trust lands) within the authority of the Departments of Defense, Interior, and Agriculture. The relevant
Secretaries are also directed to:

- submit summary reports listing all projects that have been expedited pursuant to the Order to the Director of the Office of Management and Budget (OMB), the Assistant to the President for Economic Policy, and the Chairman of the Council on Environmental Quality (CEQ) no later than 30 days after the signing of the Order; and

- provide updated status reports listing additions or changes every 30 days thereafter for the duration of the national emergency.

In addition, the Order directs the heads of all agencies, within 30 days of the Order, to identify planned or potential actions to facilitate the Nation’s economic recovery that may be subject to: (1) National Environmental Policy Act (NEPA) emergency treatment, statutory exemptions, categorical exclusions, or already completed analyses that make new analyses unnecessary; (2) Endangered Species Act (ESA) emergency consultation regulations; (3) Clean Water Act (CWA) emergency treatment pursuant to regulations and nationwide permits; and (4) any other statutes, regulations, and guidance documents that may provide for emergency or expedited treatment of agency actions related to infrastructure, energy, environmental, or natural resources matters. The agency heads are also directed to:

- provide a summary report listing such actions to designated executive branch officials within 30 days of the Order;

- use, to the fullest extent possible and consistent with applicable law, the identified emergency and other authorities to facilitate the Nation’s economic recovery; and

- continue to provide an updated status report on all such actions every 30 days for the duration of the national emergency.

**Implications**

The permitting processes for infrastructure, civil works, and other projects, such as those covered by this Order, can be time-consuming, and often take years of planning and construction to complete. The current Administration has advanced a number of revisions to the regulations implementing NEPA, ESA, and CWA in an effort to improve the efficiency of these processes and minimize delays in project development. This includes proposing major revisions to update CEQ’s procedural regulations on implementation of NEPA, discussed further [here](#). Furthering these objectives, this Order seeks to maximize the use of existing emergency and other authorities to further expedite procedural processes for federal approvals of project development.

Project proponents should be aware that the referenced emergency and other procedures under NEPA, ESA, and CWA do not waive compliance with the relevant permitting requirements. Rather, they allow for the use of alternative procedures to comply with the statutory obligations. Expedited emergency permitting performed pursuant to this Order may be subject to increased scrutiny and heightened litigation risk from third parties.