

May 18, 2015

Dear Senator Barrasso:

On behalf of the more than 6,000 members of the American Road and Transportation Builders Association (ARTBA) I commend you for introducing the “Federal Water Quality Protection Act.” This important legislation would prohibit the promulgation of a proposed rule drafted by the U.S. Environmental Protection Agency (EPA) to dramatically increase federal jurisdiction under the Clean Water Act (CWA).

ARTBA is particularly concerned with the treatment of roadside ditches under the proposed rule. Current federal regulations say nothing about ditches, but the proposed rule expands EPA jurisdiction to the point where virtually any ditch with standing water could be covered. There is no environmental advantage to be gained from regulating roadside ditches not connected to tributaries or other waterways. **Further, roadside ditches are not, and should not be regulated as, traditional jurisdictional wetlands since they are an essential part of any transportation improvement project and contribute to the public health and safety of the nation by dispersing water from roadways.**

In addition, the proposed rule creates a completely new concept of allowing for “aggregation” of the contributions of all similar waters “*within an entire watershed.*” This concept results in a blanket jurisdictional determination—meaning the EPA could regulate the complete watershed. **Such a broadening of jurisdiction would literally leave no transportation project untouched regardless of its location,** as there is no area in the United States not linked to at least one watershed. While there are certainly instances where a permit is appropriate for the impacts of transportation construction, these situations should be evaluated on a case-by-case basis where specific environmental benefits can be evaluated.

Finally, allowing EPA’s proposed rule to become final could jeopardize significant bipartisan progress made in the area of streamlining the review and approval projects for transportation improvement projects. Requiring a permit for every ditch, regardless of ecological value, would lead to lengthy delays and significantly increased costs for future transportation improvements and yield no ecological value in return.

To prevent EPA’s unprecedented attempt to expand CWA jurisdiction **ARTBA will be pleased to help you secure passage of the “Federal Water Quality Protection Act.”**

Sincerely,



T. Peter Ruane
President & CEO

