

August 27, 2012

“Plan EJ 2014: Considering EJ in EPA’s Permitting Process” Docket  
Environmental Protection Agency  
EPA Docket Center  
Mailcode 28221T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460-0001  
Attn: Docket No. EPA-HQ-OAR-2012-0452

**Re: EPA Activities to Promote Environmental Justice in the Permit Application Process**

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer comments on the Environmental Protection Agency’s (EPA’s) Notice of Availability of Proposed Regional Actions to Promote Public Participation in the Permitting Process and Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits published in the June 26 *Federal Register*.

ARTBA’s membership includes public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects throughout the country. Our industry generates more than \$380 billion annually in U.S. economic activity and sustains more than 3.3 million American jobs.

Because of the nature of their businesses, ARTBA members undertake a variety of activities requiring the issuance of EPA permits. ARTBA’s public sector members adopt, approve, or fund transportation plans, programs, or projects while our private sector members plan, design, construct and provide supplies, for these improvements. This document represents the collective views of ARTBA’s 5,000 member companies and organizations.

EPA’s stated goal for this proposal is to increase the participation of “overburdened communities” in its various permit processes. This is a commendable goal, and one which ARTBA supports. Indeed, transportation improvements are projects that are community-oriented by their very nature. Public participation is a vital and necessary requirement of both the transportation planning process and the environmental review process for transportation improvements.

With this in mind, ARTBA asks EPA to take note of the many opportunities that currently exist for public participation and ensure that these are being fully utilized. Currently, transportation projects can take anywhere from nine to 19 years from planning to completion. This is simply too long. With this in mind, if EPA is looking to increase public participation, ARTBA feels it



would be better to approach such a goal by seeking to maximize how affected communities take advantage of existing opportunities before seeking to create any new—possibly time consuming— requirements. ARTBA urges the EPA to avoid any actions that lengthen the project delivery timeline that the Administration already concedes is too long. This is particularly important for transportation projects as the recently enacted surface transportation program reauthorization, the “Moving Ahead for Progress in the 21<sup>st</sup> Century” Act (MAP-21), has placed a 180-day timeline on permitting decisions for transportation projects.

ARTBA would also suggest that when projects are described to affected communities, discussions must include not just impacts, but also benefits. In other words, a holistic approach should be used when describing potential transportation improvements. Specifically, while impacts to the environment must be taken into account required by both the National Environmental Policy Act (NEPA) and planning regulations, positive impacts of the project, such as congestion reduction and additional opportunities for employment should also be part of any dialogues with the impacted communities.

Finally, ARTBA feels it necessary to address the issue of litigation. Often, project opponents will use litigation simply as a means to delay a project on ideological grounds. While there are certainly times where litigation is an appropriate (and sometimes the only) avenue to resolve disputes, there are other times where it is used as a tool to force unnecessary delay, costs and even cancelation on transportation improvements. Again, focusing on MAP-21, there has been a concerted effort to reduce the amount of litigation involved in the project delivery process. Specifically, MAP-21 shortens the time-frame for filing lawsuits on transportation projects from 180-days to 150-days and establishes an extensive alternative dispute resolution process. Thus, EPA should be wary of adding new requirements to the permitting process which could result in additional avenues by which project opponents could pursue litigations solely aimed at achieving project delay or cancellation.

ARTBA appreciates this opportunity to comment and looks forward to continuing a dialogue with EPA aimed at making the permitting process both more inclusive and efficient.

Sincerely,

A handwritten signature in black ink that reads "T. Peter Ruane". The signature is written in a cursive style with a large, stylized initial "T".

T. Peter Ruane  
President & C.E.O