

April 17, 2012

Dear Senator:

**On behalf of the more than 5,000 members of the American Road and Transportation Builders Association (ARTBA) I urge you to support S.2245 , the “Preserve the Waters of the U.S. Act,”** sponsored by Senators John Barrasso (R-Wyo), Jim Inhofe (R-Okla), Dean Heller (R-Nev) and Jeff Sessions (R-Ala). This legislation would prohibit the promulgation of guidance 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 ditches under the guidance. Current federal regulations say nothing about ditches, but the guidance 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.** 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.

In addition, the guidance 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 will 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.

To prevent EPA’s unprecedented attempt to expand CWA jurisdiction **ARTBA urges you to support S. 2245.**

Sincerely,



T. Peter Ruane  
President & CEO

