

December 16, 2016

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Ave. SE
West Building
Ground Floor
Room W12-140
Washington, DC 20590-0001

Re: Docket No. FHWA-2016-0031, Application From the State of Utah Under the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Review Responsibilities to the State

On behalf of the 6,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer comments on the Federal Highway Administration's (FHWA) MOU assigning FHWA's environmental responsibilities under the National Environmental Policy Act (NEPA) to the state of Utah.

ARTBA's membership includes private and public sector members that are involved in the planning, designing, construction and maintenance of the nation's roadways, waterways, bridges, ports, airports, rail and transit systems. Our industry generates more than \$380 billion annually in U.S. economic activity and sustains more than 3.3 million American jobs.

ARTBA members undertake a variety of activities that are subject to the environmental review and approval process in the normal course of their business operations. ARTBA's public sector members adopt, approve, or fund transportation plans, programs, or projects. ARTBA's private sector members plan, design, construct and provide supplies for these federal transportation improvement projects. This document represents the collective views of our 6,000 member companies and organizations.

ARTBA has consistently supported the concept of state delegation of federal environmental review responsibilities since it was first introduced as a five-state pilot program in the "Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users" (SAFTE-LU). ARTBA reiterated this support when the pilot program was expanded to include all states in the "Moving Ahead for Progress in the 21st Century" (MAP-21) reauthorization law. ARTBA has specifically supported the efforts of California, Texas, Ohio and Florida to participate in FHWA's delegation program and is pleased FHWA has issued an MOU allowing Utah to assume responsibility for federal environmental review of transportation projects.

Allowing Utah and other states to assume responsibility for environmental reviews rather than provide information to federal agencies on a case-by-case basis could reduce the amount of time



involved in the environmental review and approval process by lessening the burden on federal agencies. ARTBA is supportive not only of the Utah decision to take advantage of the environmental review delegation provisions of MAP-21, but also of FHWA's efforts to make this program as accessible and appealing as possible to other states. The more states choose to take advantage of delegation, the faster needed transportation improvements will be delivered to the American public.

Indeed, states currently participating in the delegation program are beginning to demonstrate impressive results. According to an October 30, 2015, fact sheet published by the California Department of Transportation, there have been significant reductions in delay preparing environmental review documents. Specifically, when compared to documents prepared prior to the delegation program:

- Draft environmental assessments (EAs) have seen a median time savings of 10.7 months;
- Final EAs and Findings of No Significant Impact (FONSI) have seen a median time savings of 11.5 months;
- Draft environmental impact statements (EISs) have seen a median time savings of 22.9 months, and;
- Final EISs have seen a median time savings of 130.8 months—nearly 11 years¹!

While the Texas delegation program has not been in place as long as California's, the Texas Department of Transportation has estimated an average time savings of 25 percent². The Ohio Department of Transportation estimates similar time savings once Ohio's delegation program is established, as well as an estimated cost savings of \$45 million³.

In terms of the delegation process, the U.S. Department of Transportation (U.S. DOT) should also strive to make the delegation program as attractive as possible to other states. To do this, a focus should be placed on flexibility. States, including Utah, should be given maximum flexibility to use their specialized knowledge in different areas to determine activities for which they are most capable of assuming responsibility. In other words, the process should allow states to assume certain parts of the review process, while leaving others to the federal government depending on what is in the best interest of advancing the project.

ARTBA also urges FHWA to provide information sharing as a part of the delegation program. There should be a centralized clearinghouse detailing the different arrangements allowed under the program. This could allow states to see what works and what does not. If a particular arrangement is effective in one state, this knowledge might be useful to other states considering whether or not they should take advantage of the delegation program.

NEPA was never meant to be a statute enabling delay, but rather a vehicle to promote balance. While the centerpiece of this balancing is the environmental impacts of a project, other factors must be considered as well, such as the economic, safety, and mobility needs of the affected area and how a transportation project or any identified alternative will address those needs. Allowing

¹ Available at http://www.dot.ca.gov/hq/env/nepa/pdf/nepa_assignment_fact_sheet_q33_oct2015_rev.pdf.

² Available at https://www.dot.state.oh.us/NEPA-Assignment/Pages/NEPA_Assignment_History.aspx.

³ Id.

delegation of the environmental review process to interested states like Utah will help NEPA to achieve this balance.

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