



**Statement of Nick Goldstein
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American Road & Transportation Builders Association
United States Environmental Protection Agency
United States Army Corps of Engineers
Public Meeting on Revising the Definition of “Waters of the United States”
Monday, August 23, 2021**

Good afternoon. I’m Nick Goldstein, Vice President of Regulatory and Legal Issues with the American Road and Transportation Builders Association or A-R-T-B-A.

A-R-T-B-A, a 118-year old organization based in the Nation’s Capital, represents all sectors of the U.S. transportation construction industry; an industry that generates \$500 billion in U.S. economic activity and helps sustain more than 4 million American jobs. Small, family-owned businesses are the core of the transportation construction marketplace.

A-R-T-B-A thanks the E-P-A and the Corps for holding today’s meeting on revising the definition of “waters of the United States” or “WOTUS.” While A-R-T-B-A intends to submit detailed written comments on a revised WOTUS definition, I wanted to use my brief remarks to focus on the impact of the ongoing regulatory discussion over WOTUS to transportation improvement projects.

The transportation construction industry participates in a variety of activities regulated under the Clean Water Act, including the federal wetlands permitting program. A-R-T-B-A members actively work to combine the complementary interests of improving our nation’s transportation infrastructure with protecting essential water resources.

ARTBA strongly supports the Navigable Waters Protection Rule (NWPR) and believes it should continue to serve as the guide for establishing federal jurisdiction under the Clean Water Act.

Throughout the years of debate over federal Clean Water Act jurisdiction, ARTBA's primary concern has been over roadside ditches. The NWPR properly recognizes that roadside ditches are not "waters of the United States." Prior to the NWPR, virtually any ditch with standing water could have been covered by EPA and Corps jurisdiction. While federal environmental regulation should be applied when a clear need is demonstrated, regulating all roadside ditches fails to meet this threshold. The primary purpose of ditches is to help ensure safety by capturing and dispersing water which would otherwise flood roadways, and they only have water present during and after rainfall. By contrast, traditional wetlands are not typically man-made nor do they fulfill a specific safety function. As such, roadside ditches are not, and should not be regulated as, traditional jurisdictional wetlands because the only time they contain water is when they are fulfilling their intended purpose.

Requiring wetland permits for ditch construction and maintenance would force project sponsors and the private sector to incur new administrative and legal costs. This, in turn, would lead to increased project delays and divert resources from timely ditch maintenance activities, potentially threatening the role ditches play in promoting roadway safety.

It's also worth noting that there has been recent bipartisan progress in streamlining the transportation project review and approval process. Members of both political parties agree transportation improvements can be built more quickly without sacrificing necessary environmental protections. By ensuring most roadside ditches are not needlessly regulated as

“waters of the United States,” the NWPR helps to safeguard the progress of these sorely needed project delivery reforms, which, in turn, will help our nation to build back both better and sooner.

Again, thank you for the opportunity to present the views of our membership.