



May 11, 2023

U.S. Department of Transportation
Ground Floor, Room W12-140
1200 New Jersey Ave. SE
Washington, DC 20590

Re: Renewed and Amended Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State of Utah.

Today I respectfully offer comments on the Federal Highway Administration's (FHWA) April 11, notice of the Utah Department of Transportation's (UDOT) plan to renew its existing MOU as part of the Surface Transportation Project Delivery Program.

ARTBA members design and construct projects which undergo all levels of National Environmental Policy Act (NEPA) review. Accordingly, we have 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" (SAFTEA-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. Last year the historic Infrastructure Investment and Jobs Act (IIJA) set a bipartisan goal of completing the NEPA review process in two years. Continued use of the NEPA delegation program will be an important tool in meeting that goal.

ARTBA has supported the efforts of Florida, Arizona, California, Ohio, Nebraska, Texas and Alaska to participate in the FHWA's delegation program to assume responsibility for federal environmental review of transportation projects. ARTBA appreciates this opportunity to similarly offer our continued support for the Utah delegation program. UDOT has saved an average of 9 months for completing an environmental assessment (EA) and 12 months for completing an environmental impact statement (EIS).¹

NEPA delegation also continues to benefit other states as well. In the words of the California Department of Transportation (Caltrans), NEPA delegation "has resulted in documents being approved in less time; improved the efficiency in which Caltrans prepares, reviews, and approves environmental documents; improved the quality of documents; and provides for

¹ See <https://drive.google.com/file/d/10QlgX9n3ga-egS5o-KToHgLiTkaVSKiT/view?usp=sharing>, p. 12.

greater accountability through monitoring.”² A 2019 Caltrans report shows draft EA and EIS approvals are completed 12 to 24 months faster as a result of NEPA delegation.³

Additional benefits include:

- The Texas Department of Transportation has reduced the amount of time for an EA by 30 percent, from 30 to 18 months.⁴
- The Ohio Department of Transportation has saved \$17 million in the first two years of the delegation program.⁵
- The Florida Department of Transportation has saved \$22 million annually and reduced delays by 25 percent during the project development and environmental review.⁶

Put succinctly, NEPA delegation works. As FHWA stated on Dec. 22, 2016, “The NEPA Assignment Program reduces duplication, saves time and resources, and avoids compromising our high standards for protecting the human and natural environment. Empowering states in this way saves time and money, making it good government AND good business.”⁷

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.

Continuing to foster NEPA delegation in Utah will help NEPA to achieve this balance and help FHWA deliver on the IIJA’s promise of a two-year environmental review and approval process.

Sincerely,



Nick Goldstein
Vice President of Regulatory & Legal Issues

² Available at <https://dot.ca.gov/programs/environmental-analysis/nepa-assignment>.

³ Available at <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/327-monitor-report-fy-18-19-a11y.pdf>, p. 22

⁴ Available at *Transportation Point, The Resource for Transportation Professionals*, p. 3 (Summer 2018).

⁵ Id. p. 12.

⁶ Id. p. 6. (Summer 2018).

⁷ Available at <https://www.transportation.gov/fastlane/fhwa%E2%80%99s-%E2%80%98every-day-counts%E2%80%99-initiative-empowering-states>.