

T.1 AGENCIES

T.1.A Draft Environmental Impact Statement (DEIS) Comments

T.1.A.1 Cooperating Agencies

Department of the Interior (NPS & USFWS) - DEIS Comments

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
1	General - Letter	General	Despite close coordination between MDOT SHA and NPS throughout the planning process, the DEIS does not include the evaluation of previously discussed alternatives that are acceptable to the NPS, i.e. ones that avoided direct access to the GW Memorial Parkway and BW Parkway.	MDOT SHA has continued extensive coordination with the NPS to further minimize or avoid impacts to both GW Memorial Parkway and Clara Barton Parkway. MDOT SHA has developed an interchange option and bridge construction approach in close coordination with NPS that aligns with VDOTs NEXT project, avoids permanent impact to GWMP, and significantly minimizes visual and direct impacts to the parkway. FEIS Appendix G, Final Section 4(f) Evaluation, shows the interchange configurations and permanent/temporary impacts. Regarding the BW Parkway, see response to Comment #2.
2	General - Letter	General	The NPS views MDOT SHA's decision to not include its recommended analysis of the BW Parkway as potentially precluding the project from complying with the Parkway's enabling legislation (P.L. 81-643).	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes two new, high-occupancy toll (HOT) managed lanes on I-495 in each direction from the George Washington Memorial Parkway to west of MD 187 and conversion of the one existing high-occupancy vehicle lane in each direction on I-270 to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Therefore, improvements are no longer proposed at the Baltimore-Washington Parkway under the Preferred Alternative.
3	General - Letter	General	The DEIS only includes build alternatives that add two new access points to the BW Parkway. These access points would take the form of elevated ramps, which would cause far greater impacts than any current access points. This would preclude the project from complying with both The NPS Organic Act and the BW Parkway's Legislation.	See response to comment #2.
4	General - Letter	General	The current build alternatives for the project appear to threaten impairment of the BW Parkway's limited access status and the park's cultural landscape and contributing features, which NPS cannot allow. Alternatives are needed that explore avoidance or significant minimization of impacts to NPS properties, as currently all the build alternatives proposed have identical impacts to all park resources.	See response to comment #2.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
5	General - Letter	General	In addition, further analysis of impacts to park resources is needed so that NPS has the information it needs to avoid impairment of those resources. For example, additional detail is needed regarding what impacts are permanent versus temporary, details are needed regarding what is being proposed at each park, and additional studies that are currently being undertaken need to be completed and in some cases adjusted to capture NPS data needs, and analyzed.	MDOT SHA has continued to coordinate with the NPS on design and LOD refinements and resolution on the existing area of transportation use to further minimize or avoid impacts at each park. The permanent and temporary impacts have also been discussed and are provided by environmental resource in the SDEIS, Chapter 4 and FEIS, Chapter 5 by environmental resource. MDOT SHA has shared visual renderings to help illustrate potential visual changes. MDOT SHA has also conducted an individual tree survey and rare, threatened and endangered species survey on NPS property. The results of these surveys were detailed in the SDEIS-Chapter 4 have been updated in the FEIS- Chapter 5.
6	General - Letter	General	NPS will not ultimately be able to provide the required authorizations unless the final selected project alternative can be shown not to cause impairment.	MDOT SHA has continued extensive coordination with the NPS to further minimize or avoid impacts to all of their parks and resources. Based on the Preferred Alternative-Phase 1 South which limits build improvements to the area of Phase 1 South, the Baltimore-Washington Parkway is no longer impacted. At the George Washington Memorial Parkway, MDOT SHA has developed an interchange option and bridge construction approach in close coordination with NPS that avoids permanent impact to the Parkway itself and significantly minimizes visual and direct impacts to the park. FEIS Appendix E shows the interchange configurations and permanent/temporary impacts.
7	General - Letter	The Baltimore-Washington Parkway	The build alternatives described in the DEIS include modifications to contributing elements of the BW Parkway to accommodate new interchange modifications that allow for two additional, elevated, direct access ramps to and from I-495 and the BW Parkway and replacing the existing bridges carrying the parkway over I-495, resulting in new access points; contrary to the intent of the Parkway's enabling legislation. They provide for constructing, operating, and maintaining stormwater management facilities; constructing a noise wall; vegetation removal, grading changes, and realignment of the existing BW Parkway mainline; replacing the bridge carrying Greenbelt Road over the BW Parkway; and providing access for construction vehicles and materials. This would increase congestion during construction and, once completed, on the BW Parkway itself. Other new structures would include flyover ramps, electronic signs, sound walls, and stormwater management facilities that would not align with the historic parkway character and overall purpose as described in Public Law 81-643.	As described in the Supplemental DEIS, the BW Parkway is located outside the Preferred Alternative limits of build improvements and impacts have now been completely avoided. See Figure 1-1 in the Supplemental DEIS on page 1-2. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
8	General - Letter	The Baltimore-Washington Parkway	Approx. 69 acres of the Parkway would be impacted by this project and the effects of the build alternatives will diminish the integrity of the Parkway's setting and association as a designated scenic parkway. New infrastructure would impact visitors' driving experiences. Impacts to wetland and vegetation impacts would damage native forests and fragment wildlife habitat.	See response to comment #7.
9	General - Letter	The Baltimore-Washington Parkway	The DEIS states noise walls will be located on NPS lands. The DEIS does not describe details regarding the proposed location of the noise wall along the BW Parkway. Currently no noise barriers are in place along the length of the BW parkway. Any construction of noise barriers within the BW Parkway or viewshed is inconsistent with the current architecture of this listed property.	See response to comment #7.

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10	General - Letter	The Baltimore-Washington Parkway	The DEIS does not include a build alternative that avoids direct access from the managed lanes system to and from the BW Parkway at I-495, as discussed above. The only mention of why the alternative was not further considered is on page 6-8 of the DEIS which offers a summary that states: “To address NPS comments about having no direct access to BW Parkway, a traffic analysis was completed to determine traffic implications of no direct access on I-495 and BW Parkway. Results showed that direct access was needed to meet the Study’s Purpose and Need.” No further rationale as to why the alternative would not meet the overall purpose and need for the project was provided in the DEIS and no analysis was included in the Appendix F: Section Draft Section 4(f).	See response to comment #7.
11	General - Letter	The Baltimore-Washington Parkway	From the DEIS, the effects to NPS land are significant and threaten NPS's ability to approve its portion of the project. MDOT SHA needs to explore alternatives that avoid and minimize impacts to NPS properties, separate out permanent from temporary impacts, and complete field data collections to inform the analysis regarding wetlands, floodplain, rare and threatened plants, invertebrates, and forest cover.	See response to comment #7.
12	General - Letter	The Baltimore-Washington Parkway	Under any of the build alternatives presented in the DEIS, MDOT SHA would need a permit to construct the necessary improvements and a Highway Easement Deed (HED) to acquire use of NPS property. The impacts associated with the build alternatives would be significant and as proposed are inconsistent with the purpose of the BW Parkway as provided for in the BW Parkway enabling legislation. If additional alternatives are not explored to avoid or minimize impacts and the current build alternatives are found to impair the BW Parkway’s resources and values, the NPS will not be able to provide a construction permit or a HED allowing direct managed lanes access to and from the BW Parkway. The NPS therefore renews its suggestion that the NPS alternatives provided that avoid direct access to the BW Parkway be considered. We request that a full analysis or discussion on the NPS “no direct access” alternative be evaluated and provided to NPS as soon as practicable.	See response to comment #7.
13	General - Letter	The Baltimore-Washington Parkway	The DEIS should discuss (most likely within section 4.22 or Appendix O), the interrelationship of this project with the high-speed superconducting magnetic levitation (SCMAGLEV) system between Washington, DC, and Baltimore, Maryland, which is being proposed by the Federal Railroad Administration (FRA) and the Maryland Department of Transportation (MDOT), and the effects of these projects together on the BW Parkway.	As described in the Supplemental DEIS, the BW Parkway and the Baltimore Washington Superconducting Maglev project are located outside the Preferred Alternative limits of build improvements and impacts have now been completely avoided. See Figure 1-1 in the Supplemental DEIS on page 1-2. Additionally, the Federal Railroad Administration has placed the Maglev project on hold to review project elements and determine next steps. Please refer to the project website at https://www.bwmaglev.info/index.php for more information.
14	General - Letter	General	several other major projects are proposed along the narrow BW Parkway corridor between MD-410 and MD 32 and should be included in the impact analysis, such as The Loop, Purple Line, MD 198 Interchange improvements, and the MD 175 Interchange Expansion.	See response to comment #7.
15	General - Letter	General	The NPS requests that the MDOT SHA include an analysis that looks at this I-495 & I-270 Managed Lanes project and provides a detailed assessment of the impacts of this project with reasonably foreseeable future actions to the BW Parkway, and how the proposals comport with the BW Parkway’s enabling legislation	See response to comment #7.

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16	General - Letter	Chesapeake and Ohio Canal National Historic Park	Replacement of the American Legion bridge would require new piers to be constructed, which would require access to the shoreline on the eastern side of the Potomac River. This access would result in the construction of a haul road down to the river that would be used for the transport of materials and large equipment to and from the work site; removal of vegetation; loss of wetlands; the realignment of Rock Run; and potential impacts to hundreds of rare species and natural communities. This four to five-year construction timeframe will have significant impacts to the recreational opportunities currently provided by the C&O Canal NHP. Park visitors will be greatly impacted by the increased noise, presence of construction equipment, temporary closures of the towpath, trail detours, and the overall uneasiness some may feel as they try to circumvent this active construction area.	<p>Since the DEIS comments were provided by NPS, MDOT SHA has been coordinating extensively with NPS regarding the construction of the ALB and the temporary and permanent impacts for the environmentally sensitive area surrounding the ALB and the piers that support it. A separate “Strike Team” was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historical Park, Clara Barton Parkway, and the George Washington Memorial Parkway. Refer to SDEIS, Chapter 4, Section 4.4 for these additional details. In general, the Chesapeake and Ohio Canal, the towpath, and Clara Barton Parkway will remain open during the construction of the ALB and the interchange; however, MDOT SHA will continue to coordinate with NPS throughout final design and construction to address any temporary closures and minimize disruption for trail users and automobiles when the movement of equipment is necessary.</p> <p>Additionally, per NPS's request, MDOT SHA also prepared a draft Ecological and Visitor Study for information on impacts to visitor use. MDOT SHA will continue to coordinate with NPS throughout final design and construction to address any temporary closures and/or detours for trail users and automobiles, and rehabilitation of the impacted facilities.</p>
17	General - Letter	Chesapeake and Ohio Canal National Historic Park	Approx. 15 acres of the C&O Canal NHP will be impacted by this project, which will result in adverse effects on the C&O Canal NHP including visual and physical intrusions within the C&O Canal NHP from the visual and physical intrusions, resulting in a diminishment of the setting, feeling, and association of its cultural landscape. Additionally, two archeological sites will either completely or partially be destroyed.	Based on the Preferred Alternative, impacts to the Chesapeake and Ohio Canal NHP have been reduced to 10.1 acres including 1.0 acre of permanent impact and 9.1 acres of temporary impacts. The Chesapeake and Ohio Canal National Historical Park has been determined to be adversely affected by the project. The adverse effect determination takes into consideration physical and visual effects to the historic properties resulting in the diminishment of the setting, feeling, and association of Chesapeake and Ohio Canal's cultural landscape. Mitigation of those adverse effects has been closely coordinated with NPS and are addressed in the Programmatic Agreement (PA). Archaeological sites 18MO749 and 18MO751 will also be adversely affected and mitigation of those effects are also be addressed in the PA and its associated archaeological treatment plan.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
18	General - Letter	Chesapeake and Ohio Canal National Historic Park	Further coordination with NPS is required to ensure that the removal of existing piers, which are currently adjacent to historic structures, and the construction of the new piers for the American Legion bridge do not further impact park historic structures. New piers will need to be sited away from historic structures and outside the park. During construction, the use of the towpath by visitors will need to be maintained throughout the period of construction. If towpath closures is needed, MDOT SHA will be required to develop an appropriate detour for pedestrians and bicycles.	<p>Since the DEIS comments were provided by NPS, MDOT SHA has been coordinating extensively with NPS regarding the construction of the ALB and the temporary and permanent impacts for the environmentally sensitive area surrounding the ALB and the piers that support it. A separate "Strike Team" was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historical Park, Clara Barton Parkway, and the George Washington Memorial Parkway. Regarding the new pier locations, MDOT SHA has worked closely with NPS to locate the piers to maximize the vertical clearance over the towpath while shifting the piers away from Lock 13.</p> <p>In general, the towpath will remain open during the construction of the ALB; however, MDOT SHA will continue to coordinate with NPS throughout final design and construction to address any temporary closures for movement of equipment and/or detours for trail users and automobiles to minimize disruption for the limited times that closure might occur.</p>
19	General - Letter	Chesapeake and Ohio Canal National Historic Park	Any new bridge design will need to include measures for drainage to prevent run-off onto park resources.	The deck drainage will outfall the scuppers via downspouts. The downspouts will be located so as not to drop onto areas of the National Park where pedestrian use below is a normal activity.
20	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	The build alternatives will affect the GW Memorial Parkway due to use by construction vehicles building the new American Legion bridge structure and removing the existing structure; the construction, operation, and future maintenance of new direct access ramps to the managed lanes on I-495; and the installation, operation, and future maintenance of electrical signs that would not align with the historic parkway character and overall purpose. The effects on the Clara Barton Parkway will result from construction access and the construction and maintenance of stormwater management features.	MDOT SHA has continued extensive coordination with the NPS to further minimize or avoid impacts to the George Washington Memorial Parkway and Clara Barton Parkway. The impacts to the George Washington Memorial Parkway and the Clara Barton Parkway reported in this FEIS have been reduced by 7.8 acres and 0.1 acre, respectively, compared to the impacts reported in the DEIS. These impacts include both permanent and temporary impacts. Note that the property boundary used to quantify impacts to Clara Barton Parkway was revised for the FEIS to combine Public Park and Historic Property areas, and revised areas within transportation use. MDOT SHA has developed an interchange option and bridge construction approach in close coordination with NPS that significantly minimizes visual and direct impacts to both Parkways. MDOT SHA developed a signing plan that limits and minimizes the number of proposed new and replacement signs along the westbound GWMP approaching I-495. The impacts are isolated at the sign foundation locations and along a narrow length of the roadway for installation of conduit. MDOT SHA also committed to avoiding stormwater management on NPS property, per the agency's request. FEIS Appendix E shows the interchange configurations and limit of disturbance.

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21	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	The build alternatives propose using a large area within GW Memorial Parkway southeast of the American Legion Bridge to construct a switchback road that will be used to maneuver construction vehicles up and down the steep grade along the bank of the Potomac River while erecting the new bridge. This use would have a significant and long-lasting effect on the natural features of the Potomac Gorge as well as to the Dead Run Ridges Archeological District, which was just determined eligible for listing on the National Register of Historic Places on September 10, 2020. These effects and the duration that it would take for the forest to recover are not captured in the DEIS, a gap that needs to be resolved for NPS to make an authorization decision.	MDOT SHA has continued to coordinate with the NPS to further minimize or avoid impacts that would result from constructing the American Legion Bridge. The impacts noted in this comment in the southeast quadrant of the bridge have been reduced extensively since the DEIS. The area of permanent impact to the George Washington Memorial Parkway is now 0.6 acre. Mitigation for direct impacts has been closely coordinated with NPS and is described in FEIS Chapters 5 and 7 and FEIS Appendix G. FEIS Appendix E shows a sliver and small triangular area of impact along the I-495 inner loop within the George Washington Memorial Parkway.
22	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	Approx. 14 acres (12 of GW Memorial Parkway and 1.5 of Clara Barton Parkway) would be impacted by this project. The effects of the build alternatives will diminish the integrity of the GW Memorial Parkway's setting and association as a designed scenic parkway due to the addition of new infrastructure intrusions and electrical signage; the removal of vegetation; loss of wetlands; and potential impacts on hundreds of rare species and natural communities, including the rare groundwater invertebrates found within the Potomac Gorge.	While impacts to the scenic parkway, wetlands, rare species and natural communities, and potentially rare groundwater invertebrates would occur with the construction of the MLS, MDOT SHA will continue to work with NPS to minimize impacts to these important resources as much as practicable. MDOT SHA has also worked with NPS through the Wetland Statement of Findings to determine suitable mitigation for wetlands and waterways impacts. MDOT SHA has committed to developing and implementing an Ecological Restoration Plan to mitigate for impacts to rare species and vegetation loss on NPS lands.
23	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	The DEIS does not discuss how to maintain visitor services, including access to trails and roadways, during construction. In addition, the impacts to the viewsheds of the GW Memorial Parkway and Clara Barton Parkway were not analyzed in the DEIS. The visual analysis in the DEIS is performed solely from the perspective from the I-495 corridor. The visual analysis does not evaluate the effects of the new infrastructure on significant views from NPS properties as no viewpoints from NPS properties were included in the analysis. Such analysis is needed by NPS to determine impacts to the GW Memorial Parkway and make determinations regarding use of NPS land.	MDOT SHA has continued to coordinate with the NPS to identify minimization and mitigation strategies, such as maintenance of visitor services and access during construction. MDOT SHA has also shared visual renderings to help illustrate potential visual changes at NPS properties. Additionally, coordination with NPS will continue through the design and construction.
24	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	The NPS requested an alternative be included in the DEIS that did not include additional direct access from I-495 to the GW Memorial Parkway, which would have limited the direct visual and physical impacts to the GW Memorial Parkway. The coordination that is outlined in the Applied Minimization section on page 30 of the Section 4(f) evaluation suggests NPS has agreed to the nested ramp option, which is not accurate. The NPS requests alternatives be evaluated that do not expand existing direct access to the GW Memorial Parkway.	MDOT SHA has continued extensive coordination with the NPS to further minimize or avoid impacts to GW Memorial Parkway, including evaluating multiple direct access ramp movements that are located off NPS property. Additionally, MDOT SHA conducted traffic analyses in Summer 2019 showing the results of both no direct access and direct access. The results of the evaluation, presented to NPS most recently during a coordination meeting on March 4, 2021, showed that eliminating direct access would cause operational issues including increased travel time on I-495 due to congestion in the general purpose lanes, travel speeds across the American Legion Bridge less than the No Build condition along the I-495 outer loop, and queues on westbound GW Memorial Parkway due to overcapacity ramps. MDOT SHA also examined partial access (outbound only) and reconfigured ramps to reduce NPS impacts. As a result, MDOT SHA has developed an interchange option in close coordination with NPS that aligns with VDOTs NEXT project and a signing plan that reduces the number of signs and the visual impact. FEIS Appendix E shows the interchange configuration.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
25	General - Letter	George Washington Memorial Parkway (Including the Clara Barton Parkway)	We believe there are avoidance and minimization options such as those provided by the VDOT on its I-495 Northern Extension project. VDOT coordinated closely with NPS regarding the effects of new infrastructure on the GW Memorial Parkway which resulted in a design that requires minimal parkland and a reduced amount of signage. The MLS could benefit from VDOT's model and reduce impacts to parkland for both roadway infrastructure and signage.	See response to comment #24.
26	General - Letter	Greenbelt Park	The impacts to this area from this project will greatly affect the experience of approx. 130,000 annual recreational visitors and has not been sufficiently evaluated in the DEIS. Greenbelt Park contains a popular campground used by 20,000 visitors a year, which would be affected by the increase in noise and removal of vegetation as well as the aforementioned trail relocation. Impacts to wetlands and vegetation would damage the native forests that provide scenic views for visitors, and fragment wildlife habitat	As described in the Supplemental DEIS, Greenbelt Park is located outside the Preferred Alternative limits of build improvements and impacts have now been completely avoided. See Figure 1-1 in the Supplemental DEIS on page 1-2. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
27	General - Letter	Section 4(f) Evaluation	The DOI understands that there will likely be no feasible and prudent alternatives that avoid use of at least some of the Section 4(f) properties identified. Even with that understanding, we find the Avoidance Analysis presented in Section 3 of the Section 4(f) evaluation to be insufficient in its overall analysis. It applies an all-or-nothing approach to the avoidance of all the Section 4(f) resources, concluding that all avoidance of all Section 4(f) resources would involve new alignments and tunneling at the cost of tens of billions of dollars. This approach supports an argument that avoidance is neither feasible nor prudent, where analysis of specific individual measures could avoid some Section 4(f) properties or provide substantial minimization options while still meeting the purpose and need. What limited location specific avoidance analysis is included does not evaluate avoidance of each Section 4(f) property equally. There is, for example, no analysis of an alternative that does not provide direct access to the BW and GW parkways.	MDOT SHA has developed the Section 4(f) Evaluation in accordance with DOT regulations in 23 CFR 774 regarding feasible and prudent avoidance alternatives, all possible planning to minimize harm, and the least overall harm alternative. A “feasible and prudent avoidance alternative” as defined in 23 CFR 774.14 must avoid all use of Section 4(f) property. Therefore, the analysis of location-specific avoidance alternatives are included under the heading of Least Overall Harm. The revised Section 4(f) analysis included in the FEIS and Final Section 4(f) Evaluation (FEIS Appendix G) has been developed to avoid a substantial amount of impacts to Section 4(f) properties.
28	General - Letter	Section 4(f) Evaluation	The Section 4(f) evaluation could take a broader approach to the avoidance analysis for Section 4(f) properties and supplement the least harm analysis to include additional measures, such as those proposed by NPS. Currently the least harm analysis assumes that the existing Section 4(f) properties were already impacted by the development and subsequent expansions of I-495 and that impacts from this project are therefore inconsequential, which is not the case.	MDOT SHA has worked closely with the officials with Jurisdiction over impacted Section 4(f) properties to ensure all possible planning to minimize harm is included in the Final Section 4(f) Evaluation. The results of this ongoing coordination, including the development of a comprehensive mitigation package, is described in FEIS Appendix G, the Final Section 4(f) Evaluation. Additionally, MDOT SHA worked with NPS to determine the boundary of land within existing transportation use that would not be considered a Section 4(f) use.
29	General - Letter	Wildlife Comments	This project is within the range of the federally threatened northern long-eared bat (NLEB; <i>Myotis septentrionalis</i>). The NLEB is a temperate, insectivorous migratory bat that hibernates in mines and caves during the winter. The NLEB spends summers in wooded areas and has been known to use highway bridges as roost sites. Based on the completed NLEB 4(d) Rule Streamlined Consultation Form submitted by FHWA, this project may rely on use of the Service’s January 5, 2016, Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions to fulfill its Section 7(a)(2) consultation requirement. The FWS will continue to coordinate with FHWA to develop voluntary Section 7(a)(1) measures to further the conservation of the NLEB.	MDOT SHA has agreed to a voluntary time of year restriction for tree removal within a 3-mile buffer of the 3 positive acoustic detection sites for NLEBs within the MLS corridors, as determined by the 2020 MLS acoustic bat survey. An ESA Section 7 consultation with the USFWS has been completed through conducting acoustic surveys, documenting the results and voluntarily committing to a time of year restriction for protection of the bat species.
30	General - Letter	Wildlife Comments	MDOT SHA proposed and conducted an acoustic and visual bridge survey. That survey is now complete and it has been determined that Indiana bats are not present along the project corridor, so no further Section 7 for consultation for the Indiana bat is required.	Agreed.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
31	General - Letter	General	The DEIS states that stormwater management facilities will be located on NPS lands (DEIS pp. 4-19). The NPS has requested that no stormwater management features be proposed on NPS units. On page 6-8, the DEIS more accurately reflects this understanding: "In response to NPS comments, all stormwater management surface facilities were removed from NPS property except for scuppers on the American Legion Bridge, which are needed due to the profile change from the Clara Barton Parkway to the Potomac River. MDOT SHA explained that a much longer bridge would be needed to avoid the use of scuppers but committed to planning the locations of the scuppers to minimize impact to NPS property." The NPS approval of the use of NPS lands for MDOT MDSHA stormwater features will require that these scuppers on the bridge be designed to avoid to the extent practicable directly impacting the NPS-administered properties below the bridge. Stormwater facilities that are not directly associated with the park management needs are inconsistent with the purpose of these NPS units.	MDOT SHA has committed to not placing stormwater on NPS property. All stormwater management facilities on NPS property outside of the transportation use area have been removed. The FEIS has been updated to reflect this.
32	General - Letter	General	The DEIS analyzes viewsheds and visual impacts from the point of view of someone traveling along the interstate rather than from a visitor within a park and NPS needs to evaluate how the new interstate infrastructure affects views or vistas towards the I-495 corridor from NPS lands. The NPS can provide a list of viewpoints to be considered. The visual impacts for each of the NPS-administered units affected by the project will vary, as impacts from new infrastructure will vary based on location and the amount of disturbance from the project.	The FEIS includes the Visual Impact Assessment which takes into account the two types of viewsheds dynamic and static. Dynamic viewsheds are composed of the views from travelers using the highway with "views from the road". Static viewsheds consist of what neighbors can see from a single viewpoint. Neighbors of the highway are individuals or institutions that are adjacent to the study corridors and have "views of the road". Through the ongoing coordination with NPS, MDOT SHA has shared the renderings that have been developed to support the visual impact assessment.
33	Detailed Comments	Overall Comment	Effects: on the B-W parkway must be considered when assessing impact of direct access ramps from Managed lanes. Five major private, state and federal projects are proposed along the narrow B-W Parkway corridor between MD-410 and MD 32. These projects include the Boring Company Transit project, MDOT's Purple Line project, MDOT's Managed lane project, the federal/state MAGLEV project and Dept of Treasury Beltsville facility project affecting Powder Mill Road interchange.	See response to comment #2.
34	Detailed Comments	Overall Comment	The need to acquire parkland as part of this project is missing from Chapter 4 sections that discuss property acquisitions required for build alternatives. Table 4-4 is a good example of this as it only includes property acquisitions that include business and residential properties. Parks should be included in this list as well as in the discussion in section 4-5. In section 4-5 there is no mention of the need to acquire parkland as part of this project. Table 4-7 is also missing the parkland acquisitions required.	Impacts to parkland were included in the SDEIS in Chapters 4 and 5. The permanent and temporary parkland impacts are included in FEIS, Chapter 5, Section 5.5 and Table 5-14.
35	Detailed Comments	General	It is unclear from the DEIS how much of the LOD is permanent vs. temporary.	The quantification of permanent and temporary impacts was included in the SDEIS and is included within each applicable resource in FEIS Chapter 5.
36	Detailed Comments	Overall Comment - NPS FLP	The DEIS should include information regarding the NPS Federal Lands to Parks Program (FLP), the NPS' oversight role to enforce deed restrictions in transferred parkland and the Federal government's reserved reversionary interest in certain local parks in the project area. ***additional background below	There are no parks impacted by the Preferred Alternative that were acquired through the NPS Federal Lands to Parks Program (FLP); therefore the information does not need to be added to the FEIS.
37	Detailed Comments	Overall Comment - NPS FLP	Any impacts to FLP-transferred land will need to be mitigated. NPS would determine the mitigation measures in collaboration between the current owners of the properties and other agencies involved in the project, and the course of action would be subject to approval of the General Services Administration. The NPS is responsible for ensuring compliance and mitigation and amending the relevant property deeds if needed (See Federal Management Regulation 102- 75.680 and 102-75.685). Therefore, the NPS FLP Program coordinators should be included in collaboration and discussions regarding the affected parks.	See response to comment #36.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
38	Detailed Comments	Overall Comment - NPS FLP	Four parks listed in the Draft EIS were deeded in full or part through the NPS FLP to the Maryland National Capital Park and Planning Commission. These parks (or portions) are restricted to public park and recreation use in perpetuity. Cherry Hill Road Park, 42.91 acres, was deeded in two transactions in 4/22/1980 and 1/14/1992; 42.11 acres remain deeded for public parks and recreation (see below). A portion of Hollywood Park, 6.37 acres, was deeded 11/14/1975. Sunnyside Park, 8.84 acres, was deeded in two parcels on 6/06/1977 and 2/26/1992. Powder Mill Park, 18.9 acres (part of Paint Branch Creek Park Unit 3 in the DEIS) was deeded 11/14/1975.	As described in the Supplemental DEIS, Cherry Hill Road Park, Hollywood Park, Sunnyside Park, and Powder Mill Park are all located outside the Preferred Alternative limits of build improvements and impacts have now been completely avoided. See Figure 1-1 in the Supplemental DEIS on page 1-2. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
39	Detailed Comments	Overall Comment - NPS FLP	Cherry Hill Road Park: NPS believes all of Cherry Hill Road Park is under the NPS FLP requirements. The DEIS does not reference the deed requirements for parks and recreation, the reverter in the deed, nor the NPS role in compliance, all of which should be captured. The DEIS indicates a small portion of the park will likely be impacted and therefore mitigation under the NPS FLP Program will be needed.	See response to comments #36 and #38.
40	ES-18	Ex Summary	Construction SUPs are not the only action from NPS. Highway easement is missing.	The lead agencies are currently working with NPS to identify the land in and around the Clara Barton Parkway that is currently under transportation use. This land will be formally transferred through FHWA to MDOT SHA through a highway deed easement. As the project advances, MDOT SHA will work with NPS and FHWA to identify the additional land that needs to be put into highway deed easement as a result of permanent impact from the Preferred Alternative.
41		Chapter 2	The alternative screening process discussed at the start of chapter 2 seems to have occurred with no consideration to 4(f).	The discussion at the beginning of Chapter 2 was an overview of the alternatives screening process. Consideration of potential Section 4(f) properties was considered in the Screening of Alternatives. Refer to the DEIS Table 2-1 for a comparison of the potential Section 4(f) use/impacts between the Screened Alternatives.
42	2-6	Chapter 3	The "environmental" element to purpose and need seems misleading, as it was not included during the alternative screening process.	Environmental responsibility was a goal identified in the Purpose and Need. Environmental considerations were included in the development and screening of alternatives, as described in DEIS Chapter 2, Section 2.2.6. This was applied to both the initial screening criteria and the refined screening criteria for ARDS.
43	4-5	Chapter 4	The land use map does not accurately reflect the boundaries of the George Washington Memorial Parkway and the Clara Barton Pkwy and Potomac River, as they show quite a bit of brown shading (residential) that is actually parkland. Also, the maps show NPS property within the study area as park/open space instead of NPS lands which is dark green.	The boundaries of George Washington Memorial Parkway, the Clara Barton Pkwy, and the Potomac River have been refined based on coordination with NPS and were correctly shown in the SDEIS and now in the FEIS.
44	4-10	4.2.3	What does increase telework do to revenue model and the financial viability?	The revenue model and the financial viability are based on the traffic volumes. Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and teleworking related to traffic volumes.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
45	4-16	Chapter 4	The NPS disagrees with the following generalization that, based on the content of the DEIS, is not supported by appropriate analysis: "The views from adjacent properties, including residential properties, commercial enterprises, parkland/ open space properties, and a number of community resources would experience an impact; however, impacts would generally be consistent with existing views of the study corridors as the surrounding area is adjacent to the existing interstate facilities and the surrounding area is urban in nature." The potential impacts to currently forested areas and wholesale removal of this vegetation would dramatically change the views and appearance of the area and views from the NPS lands.	NPS disagreement with this statement is noted. The visual impact assessment based on the Preferred Alternative was completed with the FEIS. The Preferred Alternative would not introduce new elements incompatible with the existing visual character or qualities along the study corridors as the Preferred Alternative would expand existing interstates. Where new direct access at-grade auxiliary lanes or ramps would be constructed, visual impacts would be readily apparent, but would not contribute to a change in the character of the existing viewsheds. The design of all highway elements would follow aesthetic and landscaping guidelines that will be developed during Final Design in consultation with the local jurisdictions, private interest groups (private developers or companies), local community or business associations, as well as local, state, and federal agencies. The visual and forest mitigation is also outlined in the FEIS.
46	4-19	4.4.2	Correct name - Chesapeake and Ohio Canal National Historical Park	The correct park name was included in the SDEIS and now in the FEIS.
47	4-19	4.4.2	Clara Barton Parkway is missing - Review Chapter 5, Figures 5-1 through 5-3 and Appendix D	The Parkway references have been added in the FEIS.
48	4-19	4.4.2	Correct name the NPS park names - Chesapeake and Ohio Canal National Historical Park and <u>add</u> Clara Barton Parkway when discussing the larger area property impacts.	Completed.
49	4-19	Chapter 4	Locations for the proposed SWM structures need to be identified. DEIS states the following, "Stormwater management was eliminated from NPS property to the maximum extent practicable. At certain locations stormwater management facilities are required on NPS property because there is no other viable location to treat stormwater, such as at the American Legion Bridge and Baltimore Washington Parkway." NPS has not been provided any details related to stormwater facilities on parkland. Placement of Stormwater Management facilities on NPS properties in support of this project requires NPS approval. Any placement of SWM measures on NPS property would result in NPS receiving MDE "credits".	See response to Comment #31.
50	4-19	Chapter 4	The Baltimore Washington Parkway should be called out as the other NPS parkway in the paragraph listing properties.	See response to comment #2.
51	4-19	4.4.2	Para 3: Add Baltimore Washington Parkway to list of largest parks in CEA analysis area.	See response to comment #2.
52	4-20	4.4.4	Recommend mitigations to affected property owners may fall outside the immediate area with impacts but still within a particular watershed.	Comment noted. The final mitigation and commitments is outlined in FEIS, Chapter 7.
53	4-29+	4.6	Visual and Aesthetic Resources doesn't include cultural landscape/visual attributes of GWMP (incl CLBA Pkwy) purpose of protecting the natural scenery of the gorge of the Potomac as defined in the Capper-Cramton legislation; nor is it included under Section 4.7 which seems to address cultural resources/historic properties.	The visual impacts assessment was completed on the Preferred Alternative in the FEIS, Chapter 5, Section 5.6. Visual impacts were also considered in the Section 106 effects assessment for GWMP.
54	4-29 to 4-35	4.6	This section focuses on viewshed impacts to I-495 and I-270. However more significant viewshed impacts from this project will affect historic NPS properties. There is no mention of impacts to the Baltimore Washington parkway and Greenbelt Park. Visual impact assessments are also required for these properties.	See response to comment #2.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
55	4-34	4.6.3	DEIS States, "Where new direct access at-grade auxiliary lanes or ramps would be constructed, visual impacts would be readily apparent, but would not contribute to a change in the character of the existing viewsheds. These impacts would include widened roadways, increased amounts of pavement, and new ramps and elevated structures adjacent to the existing study corridors. However, views outside of the study corridors and to the periphery would not be affected. In sum, the viewsheds following construction of a Build Alternative would generally be consistent with existing viewsheds associated with the study corridors." - The visual impacts will be very apparent and substantial. Views from NPS lands to the project need to be considered.	See response to Comment #32.
56	4-34	4.6.3	A Visual Impact Assessment only documents the impacts, it does not mitigate them. Avoidance is more the preference, in addition to Context Sensitive design and reflected in the analysis.	Avoidance and minimization of impacts to park property, including visual impacts, has been considered and included within the Preferred Alternative where possible. Updated information with the latest mitigation and avoidance measures developed for the Preferred Alternative can be found in the FEIS Chapter 5, Section 5.6 and Chapter 6, Section 6.6.5.
57	4-34		More specificity and detail required for tree removal on NPS properties.	MDOT SHA completed a thorough tree inventory on NPS property based on NPS survey guidance within the corridor study boundary and additional details regarding potential tree impacts are included in FEIS Chapter 5, Table 5-9 and in the Natural Resources Technical Report, FEIS Appendix M.
58	4-35	4.6.4	Mitigation is not just for tree impacts, but also the understory, soil and flora and fauna impacts for the biodiverse Potomac River Gorge area.	This section is focused on overall visual and aesthetic resources within the corridor. More specific NPS mitigation is discussed in DEIS Chapter 6, Section 6.4. MDOT SHA has committed to developing and implementing an ecological restoration plan and details are included in FEIS Chapter 5, Section 5.16.4.
59	4-35	4.6.4	The NPS appreciates that Maryland law requires on-site planting and that aesthetic treatments are considered mitigation. However, the NPS has a no net loss policy when it comes to trees on NPS land and would require that the specific amount of DBH impacted would need to be replaced and not a tree for tree replacement and not necessarily within the area affected. Also the NPS does not consider aesthetic treatments as mitigation for tree loss.	This section is focused on overall visual and aesthetic resources within the corridor. More specific NPS mitigation is discussed in DEIS Section 6.4. Additional information regarding NPS forest mitigation requirements was added to FEIS Section 5.16.4.
60	4-34	4.6 Visual and Aesthetic Resources, 4.6.3	DEIS states, "Construction would require the removal of vegetation to varying degrees throughout the study corridors. Larger areas of tree removal near the American Legion Bridge on NPS property will be needed for construction and cannot be accommodated elsewhere due to the steep slopes. As a result of the vegetation removal, the wider interstates, added ramps, retaining walls, and noise barriers would become more visible and prominent from both the dynamic and static views. The static views from adjacent properties, including residential properties, commercial enterprises, parkland/open space properties, and a number of community resources would experience an impact. In general, however, impacts would be consistent with existing views along the majority of the study corridors because of the dominant presence of the existing interstate facilities and the surrounding area's urbanized nature." - It is not clear how this broad generalization is correct given the lack of supporting analysis and the expected large areas of tree removal near the ALB on NPS property needed for construction. Acknowledge the sensitive nature of the resource that has finally recovered from the impacts of the original construction in the early 1960s.	See response to Comment #45.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
61	4-35+	4.7	Discussion of historic structures and archeological sites does not adequately treat cultural landscapes/view sheds for GWMP (incl. CLBA Parkway).	The cultural landscape and viewsheds for the George Washington Memorial Parkway/Clara Barton Parkway were considered as part of the adverse effect determination made for that historic property and mitigation of adverse effects are addressed in the PA.
62	4-38	Chapter 4	Should also include NPS comments on the potential archeological district, not just VDHR's. Needs to include NPS NRHP opinion from the Keeper's office that there appears to be a NRHP Archeological District present but needs a robust statement of significance to render a DOE; also follow through with same on P. 4-43 and on PP. 4-54 - 55, and 4-56	Coordination with the Keeper of the National Register of Historic Places regarding the Dead Run Ridges Archaeological District was documented in the SDEIS Chapter 4, Section 4.7.1.A.
63	4-44	Chapter 4	Beyond setting and feeling, the proposal will affect the design, workmanship, and materials of the identified resources specifically, the BAWA.	See response to comment #2.
64	4-44	Table 4-11	For NPS properties add viewshed impacts.	The viewshed impacts for the NPS properties affected by the project (George Washington Memorial Parkway/Clara Barton Parkway and Chesapeake and Ohio Canal National Historical Park) were considered as part of the adverse effect determinations made for these historic properties and mitigation of adverse effects will be addressed in the PA.
65	4-47	4.7.3.A.a	For the B-W Parkway significant changes to earlier design proposals are identified and once understood will likely increase impacts previously voiced. This design change includes the addition of a noise wall, replacement of the existing bridge over I-495, and realignment of the interchange area and replacement of the Greenbelt Road bridge. The discussion does not adequately describe the increased signage extending beyond the impact area which has been an area of concern expressed in previous meetings with the project team.	See response to comment #2.
66	4-48	Chapter 4	GWMP/Clara Barton Pkwy entry - needs more introductory description; specifically, the Capper-Cramton Act protecting the natural scenery of the gorge of the Potomac language and acknowledgement that a purpose was to protect gorge from development.	Since the DEIS, MDOT SHA has continued to coordinate with NPS, M-NCPPC, and NCPC related to the Capper-Crampton applicability and roles. The FEIS will reflect the latest coordination. The Potomac Gorge setting was considered as part of the adverse effect determination.
67	4-48	Chapter 4	Under c. it says to build two new American Legion bridge structures, but under b. it mentions just one replacement of the ALB. Please clarify.	The ALB will be completely replaced, but there will be two structures side by side, one for inner loop and one for outer loop with just enough space between the two bridges to accommodate future maintenance needs on the structures.
68	4-48	4.7.3 B.c. GWMP	The construction access has not been decided upon. This should be stated. In consultation with the National Park Service, various access routes and options are being discussed. The narrative as written gives the impression that the approach is a given. More discussion specific to access routes and methodology for doing the work.	See response to Comment #18.
69	4-48	4.7.3 CHOH	This section states that "These activities would require the temporary closure of the canal towpath for the construction and removal of the grade separated crossings that would be in place during construction of the new American Legion Bridge, which is anticipated to last between four and five years." The project will be required to work with the NPS to develop a detour for the users to access the trail and then completely rehabilitate the area.	See response to Comment #18.
70	4-49	Chapter 4	Concerning the reference to a "linear stormwater management facility that will extend onto Clara Barton Parkway," is this a new design element? Stormwater structures on NPS properties has not been discussed with the NPS.	See response to Comment #31.
71	4-49	Chapter 4	Official name is "Clara Barton Parkway" not "Clara Barton Memorial Parkway".	The correct park name was included in the SDEIS and now in the FEIS.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
72	4-50	4.7.3.A.e.	For Greenbelt Park additional impacts should be included such as reduced vegetation buffer between the park and a significant roadway. In addition, the NPS believes there will be significant noise impacts from this reduced buffer as well as elevated roadways on and off the parkway. With the realignment of Perimeter trail, the trail will likely be squeezed next to a major road in the park and the new park boundary. In these instances, features within the park <u>would be</u> physically affected.	See response to comment #2.
73	4-55+	Chapter 4	DEIS says very little regarding mitigation. Additional coordination with the NPS is required to determine proper mitigations.	MDOT SHA has benefitted from the active participation by NPS as a cooperating agency during this study. Through this coordination, impacts to NPS properties have been avoided and significantly minimized. Mitigation for unavoidable impacts has been developed in close coordination with NPS and is detailed in FEIS Chapter 5 and FEIS Chapter 7. Refer to Chapter 9, Section 3.4 for a response on the NEPA approach, analysis, and impacts.
74	4-55+	Chapter 4	Mitigation section 4.7.4 does not really speak to the historic property cultural landscape/visual attributes of GWMP (incl CLBA Pkwy) purpose of protecting the natural scenery of the gorge of the Potomac.	The cultural landscape and viewsheds for the George Washington Memorial Parkway/Clara Barton Parkway, including the setting of Potomac Gorge, were considered as part of the adverse effect determination made for that historic property and mitigation of adverse effects will be addressed in the PA.
75	4-63+	General	For 4.9 Noise, the criteria for "noise" is described as above 75dB(A), but what is the current noise level experienced by park visitors during full and minimal foliage periods? Consider that any increase beyond current levels is a negative impact. To mitigate noise in areas 16 and 17 (page 4-69), elevated barriers rising up to 21 feet along the B-W Parkway interchange have been proposed. Currently no noise barriers are in place along the length of the parkway. Any construction of noise barriers is inconsistent with current architecture on this listed.	See response to #2.
76	4-67	Noise Barriers	The placement of noise barriers on NPS lands is new to the NPS. NPS would want the placement of any noise barriers to be within MDOT existing ROW.	As described in the Supplemental DEIS, the Preferred Alternative limits of build improvements have been reduced to Phase 1 South. There are no noise barriers adjacent to NPS properties in Phase 1 South. Additionally, no noise barriers are located on NPS property.
77	4-80	Chapter 4	Table 4-19 add the number of acres of each feature type.	This table represents a count of features, therefore, acres of feature types were not added. Feature impacts in acres can be found in FEIS Chapter 5, Table 5-4.
78	4-81	Chapter 4	Table 4-20 define abbreviations in table headers "square feet and acres?"	A sentence has been added to the text defining these terms.
79	4-91	Chapter 4	Dead Run should be on this list of streams that may be impacted, and added to appendix M. Please clarify if otherwise.	Dead Run will not be impacted. The LOD along the GWMP in this area is for signage only. Sign foundations will not be placed in the stream. Any conduit needed for signage will either be attached to the bridge or bored under the stream to avoid stream impacts.
80	4-96	Floodplains	Add Dead Run to the list. APE includes the bridge over Dead Run.	Dead Run was added to the floodplain list in the FEIS, since signage foundation locations may be within the Dead Run floodplain.
81	4-98	Chapter 4	The discussion on forests should reflect a review, with citation, of: Fleming, G.P. 2007. Ecological communities of the Potomac Gorge in Virginia: composition, floristics, and environmental dynamics. Natural Heritage Tech. Rep. 07-12. Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond. Unpublished report submitted to the National Park Service. 341 pp. plus appendices. It discusses the rare plant communities of Turkey Run Park that could be impacted by this project.	Turkey Run Park is not located in the Preferred Alternative LOD.
82	4-100	Table 4-26	Previous section has noted tree removal along the B-W Parkway, in particular the median area. If direct access ramps were no longer pursued, what is the impact to the tree canopy?	See response to comment #2.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
83	4-100	Table 4-26	Table notes that tree canopy impacts to Greenbelt are .8 acres but noted on table 4-5 pg 4-20, the entire park impacts are .6 acres. How are the tree impacts higher than the overall impacts? Also, tree impacts to C&O are noted as 16.6 acres while overall park impacts are 15 acres. Please clarify.	Addressed. Initial calculations included the NPS historic boundary used for 4(f) purposes. This boundary is different than the current property line, which excludes ROW areas. Impacts were re-run with ROW areas excluded from the NPS boundaries. Greenbelt is outside of the limit of build improvements associated with the Preferred Alternative 9 - Phase 1 South.
84	4-101	Chapter 4	"Data on wildlife habitat... .." this should include the numerous journal articles (backed up with museum specimens) provided in previous reviews (**listed below). With the abundance of published information there is no reason for data to be based on "incidental observations." Chapter 10, which includes the list of literature reviewed for the preparation of the EIS does not include any of the 22 references provided in previous reviews of the EIS (these are provided again below). Please add all of these to Chapter 10. All of the papers are available on-line or you can email brent_steury@nps.gov to receive copies. The Potomac Gorge is one of the most studied natural areas in North America. Between the studies conducted on Plummers Island by the Washington Biologist Field Club dating back over 100 years and the more recent studies conducted by GWMP, the Potomac Gorge is one of the most important long-term biological study sites in North America. **literature review for comment #49 is included in original letter	This section of the DEIS was not discussing RTE species or specific to the Potomac Gorge. The Potomac Gorge species and other species are discussed further in the FEIS, Appendix M, NRTR, Sections 2.8 and 2.10. The references mentioned in the comment are included in the NRTR.
85	4-101	Chapter 4	There is no mention of invertebrates (arthropods and gastropods) - one of the best studied and most numerous life forms in the project area.	MDOT SHA has added information/reference to these species in FEIS Chapter 5, Section 5.17 Terrestrial Wildlife.
86	4-106	Chapter 4	Table 4-28 Add Dead Run.	This table is listing watersheds. Dead Run is within the Fairfax County Middle Potomac watershed, which was included in DEIS Table 4-28.
87	4-114	4.19 Rare, Threatened, and Endangered Species SSPRA	The sensitivity of the Potomac River Gorge needs to be considered.	A statement about sensitivity of the Potomac River Gorge was added to FEIS Chapter 5, Section 5.19.
88	4-144+	4.22	ICE and P4-148 Section 4.22.2 Past & Present Land Use do not address land protection measures inherent in the GWMP purposes in accordance with Capper-Cramton.	Since the DEIS, MDOT SHA has continued to coordinate with NPS related to the Capper-Crampton applicability and roles. The FEIS reflects the latest coordination.
89	4-153	Section 4.7, Table 4-40 & 4-41	Echoing comments above re: cultural landscapes, several of these properties (e.g. GW Parkway, CB Parkway) are documented cultural landscapes with character-defining features that need to be considered, just as with other types cultural resources.	The cultural landscape and viewsheds for the George Washington Memorial Parkway/Clara Barton Parkway, as character-defining aspects of that historic property, were considered as part of the adverse effect determination made for that historic property and mitigation of adverse effects will be addressed in the PA.
90	4-154	Chapter 4	Cultural landscapes should be identified under the Cultural Resources section.	Cultural landscapes, as character-defining aspects of historic properties, were considered as part of adverse effects determinations. Mitigation of adverse effects to cultural landscapes will be addressed in the PA.

No.	Page	DEIS Section	Comment (paraphrased from full letter)	Response
91	6-8	Chapter 6	Section 4(f) states the following: "In response to NPS comments, all stormwater management surface facilities were removed from NPS property except for scuppers on the American Legion Bridge, which are needed due to the profile change from the Clara Barton Parkway to the Potomac River. MDOT SHA explained that a much longer bridge would be needed to avoid the use of scuppers but committed to planning the locations of the scuppers to minimize impact to NPS property." However, in the DEIS in multiple locations it describes actions on NPS lands to include stormwater facilities. On page 4-19 it states that, "At certain locations stormwater management facilities are required on NPS property because there is no other viable location to treat stormwater, such as at the American Legion Bridge and Baltimore Washington Parkway." This discrepancy needs to be resolved.	See response to Comment #31.
92	6-8	Chapter 6	In addition to the SUP and highway authorities mentioned, NPS authority and responsibility under its Organic Act should be included: The NPS Organic Act, as amended and supplemented, requires NPS to leave park resources "unimpaired for the enjoyment of future generations" and prohibits it from authorizing any activities "in derogation of the values and purposes for which the System units have been established." 54 U.S.C. 100101. NPS will not ultimately be able to provide the required authorizations unless the final selected project can be shown not to cause such impairment. Impacts are not purely a NEPA analysis issue but could pose a substantive obstacle preventing NPS from authorizing its part of the project.	NPS regulatory requirements including the Organic Act are included in FEIS Chapter 5. MDOT SHA has continued to coordinate with the NPS to further minimize or avoid impacts at each park with the goal of avoiding impairment. The permanent and temporary impacts have also been discussed and are provided by environmental resource in the SDEIS, Chapter 4 and FEIS, Chapter 5 by environmental resource. MDOT SHA has shared visual renderings to help illustrate potential visual changes.
93	Appendix F, p 76	2.1.24	Cherry Hill Road Park is 42.1 acres, acquired from the Federal government in 1980. In actuality, the NPS FLP program originally transferred 42.91 acres for the park in two actions in 1980 and 1992, with 0.8 acres reverted in 1985 for road widening purposes, leaving 42.11 acres under the FLP program. While the DEIS references a section of the original deed citing authority to take a portion of the property for road widening, further research is needed to affirm whether this authority was limited to and exercised in the 1985 reversion of 0.8 acres.	See response to comment #2.
94	Appendix F, p 24	Table 2.1	The DEIS identifies Hollywood Park as 22.3 acres. While the FLP data base lists only 6.37 acres are subject to the FLP program deed restrictions, our files confirm the land is adjacent to the I-495 Beltway and the FLP acres may therefore be impacted and require mitigation for a conversion of use.	See response to comment #2.
95	Appendix F, p 27	Table 2.4	Powder Mill Park, 18.9 acres transferred through the NPS FLP Program, was not identified in the DEIS but appears to be part of DEIS-listed Paint Branch Stream Valley Park Unit 3. Although Appendix F, Table 2.4, page 27 states there will be no use or impact to the park, NPS has concerns because the FLP parcel is adjacent to I-95.	See response to comment #2.
96	Appendix F, p 27	Table 2.4	Sunnyside Park, 8.84 acres: Appendix F, Table 2.4, page 27 states there will be no use or impact. The DEIS did not identify the role of the NPS FLP Program in this park nor the perpetual deed requirements and reverter clause.	See response to comment #2.
97	Appendix L, p 107	2.8.1	This section of the appendix implies that U.S. Department of the Interior Solicitor's Opinion M-37050 applies to the Bald and Golden Eagle Protection Act (BGEPA). Bald eagles are protected by the BGEPA and the Migratory Bird Treaty Act (MBTA). However, Opinion M-37050 is specific to the MBTA and does not apply to the BGEPA.	This paragraph was revised in the Final Natural Resources Technical Report appended to the FEIS in Appendix M to clarify this implication.
98	Appendix L, p 107	2.8.1	For purposes of citation, the full list of prohibited acts under the Bald Eagle and Golden Eagle protection Act (BGEPA) is provided at 16 U.S.C. 668, whereas the definition of 'disturb' is found in BGEPA's implementing regulation (50 CFR 22.3) and not within the statute.	Text was revised in the Final Natural Resources Technical appended to the FEIS in Appendix M to reflect the correct relation between citation and information.

DEPARTMENT OF THE INTERIOR – NATIONAL PARK SERVICE & US FISH & WILDLIFE SERVICE



IN REPLY REFER TO:

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November 9, 2020

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ER20/0292

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Re: I-495 and I-270 Managed Lanes Study Draft Environmental Impact Statement and Draft Section 4(f) Evaluation

Dear Ms. Mar and Ms. Choplin,

The Department of the Interior (DOI or Department) has reviewed the I-495 & I-270 Managed Lanes Study Draft Environmental Impact Statement (DEIS) and draft Section 4(f) evaluation and submits the following comments on behalf of the National Park Service (NPS) and the U.S. Fish and Wildlife Service (FWS).

The Federal Highway Administration (FHWA), in conjunction with the Maryland Department of Transportation State Highway Administration (MDOT SHA), has released the DEIS and draft Section 4(f) Evaluation to analyze the potential environmental impacts of alternatives that address congestion within the specific study scope of I-495 from south of the American Legion Bridge in Fairfax County, Virginia, to east of the Woodrow Wilson Bridge and on I-270 from I-495 to I-370, including the east and west I-270 spurs in Montgomery and Prince George's Counties, Maryland. The purpose of the project is to develop travel demand management solutions that address congestion, improve trip reliability on I-495 and I-270 within the study limits, and enhance existing and planned multimodal mobility and connectivity.

This project, if implemented, has the potential to affect approximately 86 acres of NPS lands within six units of the national park system. The affected NPS units are: the Baltimore-Washington Parkway (BW Parkway); Greenbelt Park; Chesapeake and Ohio Canal National Historical Park (C&O Canal NHP); and Suitland Parkway and the George Washington Memorial Parkway (GW Memorial Parkway), which also includes the Clara Barton Parkway. The purposes, values, and significance of these affected units are explained below. Due to the direct effects to park land and the need for the project to receive approvals from the NPS, the NPS has been identified as a cooperating agency for this study and has coordinated closely with the FHWA and MDOT SHA up to the release of the DEIS.

The following discussion outlines the Department's concerns regarding the impacts that would occur from the proposed actions evaluated in the DEIS, especially those associated with the BW Parkway. The body of this letter provides the Department's general comments on the DEIS and Section 4(f) evaluation. More detailed comments are provided in the attached matrix.

As discussed in more detail in the following section, the Department is concerned that despite close coordination between MDOT SHA and the NPS throughout the planning process, the DEIS does not include the evaluation of previously discussed alternatives that are acceptable to the NPS. The NPS has advocated for alternatives that avoided direct access to the GW Memorial Parkway and BW Parkway, which would avoid most of the physical and visual impacts to the Parkways and their component landscapes.

We view MDOT SHA's decision to not include analysis of the NPS's recommended alternative for the BW Parkway as potentially precluding the project from complying with the Parkway's enabling legislation, which states:

The parkway shall be constructed, developed, operated, and administered as a limited access road primarily to provide a protected, safe, and suitable approach for passenger-vehicle traffic to the National Capital and for an additional means of access between the several Federal establishments adjacent thereto and the seat of government in the District of Columbia. To avoid impairment of this purpose, the Secretary of the Interior, with the concurrence of the Secretary of Commerce, shall control the location, limit the number of access points, and regulate the use of said parkway by various classes or types of vehicles or traffic. (P.L. 81-643)

The NPS Organic Act, as amended and supplemented, requires the NPS to leave park resources and values "unimpaired for the enjoyment of future generations" and prohibits it from authorizing any activities "in derogation of the values and purposes for which the System units have been established." 54 U.S.C. 100101. NPS thus may not authorize any activity that impairs park resources and values. This is a substantive prohibition.

As is further described in NPS Management Policies, impacts are most likely to cause impairment when they harm resources or values that are necessary to fulfill specific purposes identified in a park unit's establishing legislation. As noted above, the BW Parkway's status as a limited access road is one such core purpose, which the Secretary of the Interior (through NPS) is specifically directed not to impair, both by the Organic Act and the BW Parkway's legislation itself. The DEIS only includes build alternatives that add two new access points to the BW Parkway. Moreover, those access points would take the form of elevated ramps, which would

cause far greater impacts than any current access points (as detailed below). Other impacts to park resources and values of concern are also detailed below.

It is thus important to highlight the project's effects on park resources and values that may affect the NPS's ability to provide required authorizations for the project. The current build alternatives for the project appear to threaten impairment of the BW Parkway's limited access status and the park's cultural landscape and contributing features, which NPS cannot allow. Alternatives are needed that explore avoidance or significant minimization of impacts to NPS properties, as currently all the build alternatives proposed have identical impacts to all park resources. In addition, further analysis of impacts to park resources is needed so that NPS has the information it needs to avoid impairment of those resources. For example, additional detail is needed regarding what impacts are permanent versus temporary, details are needed regarding what is being proposed at each park, and additional studies that are currently being undertaken need to be completed and in some cases adjusted to capture NPS data needs, and analyzed. Additional, specific examples are provided in the following discussion and comment matrix. NPS will not ultimately be able to provide the required authorizations unless the final selected project alternative can be shown not to cause impairment.

THE BALTIMORE-WASHINGTON PARKWAY

The BW Parkway was established by Congress on August 3, 1950, Public Law 81-643 (quoted in part above), and opened in 1954. The 19-mile scenic highway connects Baltimore, Maryland, and Washington, D.C., and was designed to blend with the natural topography and preserve a scenic, forested transportation corridor between Washington, D.C., and Baltimore, Maryland. It is one of four parkways in the nation's capital that integrates a majestic parkway design and serves as a scenic entry to the capital city. The BW Parkway was listed on the National Register of Historic Places in 1991. It is a cultural landscape, intended to retain a combination of thick woodland forest and grassy lawn within the median in accordance with the landscape standards of mid-20th century parkway construction. The native forests provide scenic views for visitors, including drivers and passengers, and serve as an increasingly important corridor for wildlife, from forest-dwelling species to migratory birds.

The BW Parkway exemplifies the last period of construction for this type of park and is the only fully developed parkway of its kind in Maryland. The enabling legislation cited above stipulates that the BW Parkway is to be considered an extension of the park system of the District of Columbia and its environs. Since the parkway opened in 1954, maintenance on road and park land has been aimed at the preservation of five aesthetic qualities with the objective of not only minimizing negative impacts, but also of enhancing parkway character wherever possible. Features to be preserved include: right-of-way with heavy slope vegetation; opposing roadways separated by a variable-width median; curvilinear road alignments; stone-faced bridge abutments; and contour grading fit to the topography. The BW Parkway includes a multitude of contributing elements of landscape architecture and approximately 125 contributing structures, including eighteen bridges and numerous culverts with decorated headwalls.

The build alternatives described in the DEIS include modifications to contributing elements of the BW Parkway to accommodate new interchange modifications that allow for two additional, elevated, direct access ramps to and from I-495 and the BW Parkway and replacing the existing bridges carrying the parkway over I-495, resulting in new access points; contrary to the intent of the Parkway's enabling legislation. They provide for constructing, operating, and maintaining

stormwater management facilities; constructing a noise wall; vegetation removal, grading changes, and realignment of the existing BW Parkway mainline; replacing the bridge carrying Greenbelt Road over the BW Parkway; and providing access for construction vehicles and materials. This would increase congestion during construction and, once completed, on the BW Parkway itself. Other new structures would include flyover ramps, electronic signs, sound walls, and stormwater management facilities that would not align with the historic parkway character and overall purpose as described in Public Law 81-643.

Approximately 69 acres of the BW Parkway would be impacted by this project and the effects of the build alternatives will diminish the integrity of the BW Parkway's setting and association as a designed scenic parkway. The addition of new infrastructure would impact the visitor experience of driving on a historic parkway. Impacts to wetlands and vegetation would damage the native forests that provide scenic views for visitors and fragment wildlife habitat.

The DEIS states noise walls will be located on NPS lands (DEIS pp. 4-47). The DEIS does not describe details regarding the proposed location of the noise wall along the BW Parkway. Currently no noise barriers are in place along the length of the BW parkway. Any construction of noise barriers within the BW Parkway or viewshed is inconsistent with the current architecture of this listed property.

The DEIS does not include a build alternative that avoids direct access from the managed lanes system to and from the BW Parkway at I-495, as discussed above. The only mention of why the alternative was not further considered is on page 6-8 of the DEIS which offers a summary that states: *"To address NPS comments about having no direct access to BW Parkway, a traffic analysis was completed to determine traffic implications of no direct access on I-495 and BW Parkway. Results showed that direct access was needed to meet the Study's Purpose and Need."* No further rationale as to why the alternative would not meet the overall purpose and need for the project was provided in the DEIS and no analysis was included in the Appendix F: Section Draft Section 4(f).

From the DEIS, the effects to NPS land are significant and threaten NPS's ability to approve its portion of the project. Considering the potential impacts to the BW Parkway and NPS's responsibilities and authorities (discussed above), MDOT SHA needs to explore alternatives that avoid and minimize impacts to NPS properties, separate out permanent from temporary impacts, and complete field data collections to inform the analysis regarding wetlands, floodplain, rare and threatened plants, invertebrates, and forest cover.

Under any of the build alternatives presented in the DEIS, MDOT SHA would need a permit to construct the necessary improvements and a Highway Easement Deed (HED) to acquire use of NPS property. The impacts associated with the build alternatives would be significant and as proposed are inconsistent with the purpose of the BW Parkway as provided for in the BW Parkway enabling legislation. If additional alternatives are not explored to avoid or minimize impacts and the current build alternatives are found to impair the BW Parkway's resources and values, the NPS will not be able to provide a construction permit or a HED allowing direct managed lanes access to and from the BW Parkway. The NPS therefore renews its suggestion that the NPS alternatives provided that avoid direct access to the BW Parkway be considered. We request that a full analysis or discussion on the NPS "no direct access" alternative be evaluated and provided to NPS as soon as practicable.

The DEIS should discuss (most likely within section 4.22 or Appendix O), the interrelationship of this project with the high-speed superconducting magnetic levitation (SCMAGLEV) system between Washington, DC, and Baltimore, Maryland, which is being proposed by the Federal Railroad Administration (FRA) and the Maryland Department of Transportation (MDOT), and the effects of these projects together on the BW Parkway. A DEIS is being prepared for the SCMAGLEV project by FRA and MDOT with a projected public release in January 2021. The Administrative DEIS was provided to cooperating agencies in October 2020. As proposed, six miles of continuous elevated railway to support the SCMAGLEV system would run parallel to the BW Parkway, significantly impacting the historic character and overall visitor experience on the BW Parkway. Proposed flyover ramps and their supporting piers are intended for the same areas in which planned SCMAGLEV underground tunnels will be constructed, potentially requiring changes to one or both projects, which is not considered in this DEIS. With the combined impacts of the actions proposed in the I-495 & I-270 Managed Lanes Study and the impacts associated with the proposed SCMAGLEV project, we do not believe that the BW Parkway will remain consistent with the original intent of its enabling legislation and the purpose for which it was created. Attached is a map that indicates the limit of disturbance (LOD) for this project and a draft potential LOD for two alternatives of the SCMAGLEV project.

In addition, several other major projects are proposed along the narrow BW Parkway corridor between MD-410 and MD 32 and should be included in the impact analysis, such as The Loop, Purple Line, MD 198 Interchange improvements, and the MD 175 Interchange Expansion.

The NPS requests that the MDOT SHA include an analysis that looks at this I-495 & I-270 Managed Lanes project and provides a detailed assessment of the impacts of this project with reasonably foreseeable future actions to the BW Parkway, and how the proposals comport with the BW Parkway's enabling legislation, the significance of which has also been cited as justification for the BW Parkway's placement on the National Register of Historic Places as "a major scenic artery within the park and parkway system of the nation's capital, a formal entrance to the city of Washington, D.C., a defense/military route among suburban federal installations and the city, and a contributing element to the commercial and residential development of the Baltimore-Washington corridor. The Parkway maintains original integrity of setting, design, and associations characteristic of the earliest parkways designed for pleasure motoring, including the preservation of natural topography and vegetation for scenic purposes".

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

The C&O Canal NHP became a unit of the National Park System as a national monument in 1961 and was then established as a national historical park by Congress in 1971, through Public Law 91-664. Its stated purposes are preserving and interpreting the 19th century transportation canal and its associated scenic, natural, and cultural resources; and providing opportunities for education and appropriate outdoor recreation. The C&O Canal NHP stretches along the Potomac River from Rock Creek at Georgetown in Washington, D.C., to Cumberland, Maryland, for 184.5 miles. The C&O Canal NHP is listed on the National Register of Historic Places and contains more than 1,300 historic structures, including one of the largest collections of 19th century canal features and buildings in the national park system. The towpath and canal cross underneath I-495 at the American Legion Bridge, in Bethesda, Maryland.

Effects of the build alternatives on the C&O Canal NHP will result from the construction of the new American Legion Bridge; removal of the existing bridge; construction staging; access for construction vehicles; the construction, operation, and maintenance of the realigned ramp from I-495 northbound to Clara Barton Parkway; the construction of a trail connection between a shared use path on the east side of the new American Legion Bridge and the C&O Canal towpath; and the construction, operation, and maintenance of linear stormwater management features beneath the shoulders of the I-495 mainline south of the towpath.

Replacement of the American Legion bridge would require new piers to be constructed, which would require access to the shoreline on the eastern side of the Potomac River. This access would result in the construction of a haul road down to the river that would be used for the transport of materials and large equipment to and from the work site; removal of vegetation; loss of wetlands; the realignment of Rock Run; and potential impacts to hundreds of rare species and natural communities. This four to five-year construction timeframe will have significant impacts to the recreational opportunities currently provided by the C&O Canal NHP. Park visitors will be greatly impacted by the increased noise, presence of construction equipment, temporary closures of the towpath, trail detours, and the overall uneasiness some may feel as they try to circumvent this active construction area.

Overall, approximately 15 acres of the C&O Canal NHP will be impacted by this project, which will result in an adverse effect on the C&O Canal NHP from the visual and physical intrusions within the C&O Canal NHP, resulting in a diminishment of the setting, feeling, and association of its cultural landscape. In addition, two archeological sites will either completely or partially be destroyed. Further coordination with the NPS is required to ensure that the removal of existing piers, which are currently directly adjacent to historic structures, and the construction of new piers for the American Legion bridge do not further impact park historic structures. New piers will need to be sited away from historic structures and outside the park. During construction, use of the towpath by visitors will need to be maintained throughout the period of construction. If towpath closure is needed, MDOT SHA will be required to develop an appropriate detour for pedestrians and bicycles. It will be necessary for MDOT SHA to coordinate with the NPS on further minimization and mitigation. The American Legion bridge crosses through the Potomac Gorge, which includes hundreds of rare species and natural communities, including rare groundwater invertebrates, and supports the highest concentration of rare plants in Maryland. Survey work for wetlands, bats, invertebrates, and rare plants is now taking place and we request that MDOT SHA evaluate impacts to individual park resources. In addition, the current American Legion bridge has poor drainage, which causes pitting and damage to the C&O Canal NHP towpath, which lies below it. Several cyclists using the towpath have been harmed due to the rough path beneath the bridges caused by bridge drainage issues. This stormwater also introduces oil, chemicals, and other contaminants to the towpath and canal. Any new bridge design will need to include measures for drainage to prevent run-off onto park resources.

GEORGE WASHINGTON MEMORIAL PARKWAY (INCLUDING THE CLARA BARTON PARKWAY)

The GW Memorial Parkway was established by Congress on May 29, 1930, through Public Law 71-284, known as the Capper-Cramton Act. This enabling legislation requires that the GW Memorial Parkway (as well as other land acquired by the act), serve to prevent pollution of Rock Creek and the Potomac and Anacostia Rivers, to preserve forests and natural scenery in and

about Washington, D.C., and to provide for the comprehensive and continuous development of park, parkway, and playgrounds of the National Capital Area. The GW Memorial Parkway runs along the Potomac River through two states, Virginia and Maryland, as well as the District of Columbia, protecting the landscape and natural shoreline of the river while offering magnificent scenic vistas of Washington, D.C., and the Potomac Gorge. Along its route, the GW Memorial Parkway also connects several important historic sites, memorials, and scenic and recreation areas in the Washington, D.C., metropolitan area. The portion of the GW Memorial Parkway that runs along the Maryland side of the Potomac River is the Clara Barton Parkway which also became part of the national park system through the Capper-Cramton Act (originally as the Maryland portion of the GW Memorial Parkway). The GW Memorial Parkway and Clara Barton Parkway are on the National Register of Historic Places for its association with twentieth-century parkway design, engineering, landscape architecture, park planning and conservation, commemoration, and an association with George Washington.

The build alternatives will affect the GW Memorial Parkway due to use by construction vehicles building the new American Legion bridge structure and removing the existing structure; the construction, operation, and future maintenance of new direct access ramps to the managed lanes on I-495; and the installation, operation, and future maintenance of electrical signs that would not align with the historic parkway character and overall purpose. The effects on the Clara Barton Parkway will result from construction access and the construction and maintenance of stormwater management features.

In addition, the build alternatives propose using a large area within GW Memorial Parkway southeast of the American Legion Bridge to construct a switchback road that will be used to maneuver construction vehicles up and down the steep grade along the bank of the Potomac River while erecting the new bridge. This use would have a significant and long-lasting effect on the natural features of the Potomac Gorge as well as to the Dead Run Ridges Archeological District, which was just determined eligible for listing on the National Register of Historic Places on September 10, 2020. These effects and the duration that it would take for the forest to recover are not captured in the DEIS, a gap that needs to be resolved for NPS to make an authorization decision.

Approximately 14 acres (12 acres of the GW Memorial Parkway and 1.5 acres of the Clara Barton Parkway) would be impacted by this project. The effects of the build alternatives will diminish the integrity of the GW Memorial Parkway's setting and association as a designed scenic parkway due to the addition of new infrastructure intrusions and electrical signage; the removal of vegetation; loss of wetlands; and potential impacts on hundreds of rare species and natural communities, including the rare groundwater invertebrates found within the Potomac Gorge. The DEIS does not discuss how to maintain visitor services, including access to trails and roadways, during construction. In addition, the impacts to the viewsheds of the GW Memorial Parkway and Clara Barton Parkway were not analyzed in the DEIS. The visual analysis in the DEIS is performed solely from the perspective from the I-495 corridor. The visual analysis does not evaluate the effects of the new infrastructure on significant views from NPS properties as no viewpoints from NPS properties were included in the analysis. Such analysis is needed by NPS to determine impacts to the GW Memorial Parkway and make determinations regarding use of NPS land. As mentioned previously, the enabling legislation for both these NPS units requires the preservation of natural scenery which is being affected by this project. The project would have an adverse effect on these historic properties' cultural

landscapes, historic structures, and viewsheds, with long-lasting impacts to park values and the Potomac Gorge.

The NPS requested an alternative be included in the DEIS that did not include additional direct access from I-495 to the GW Memorial Parkway, which would have limited the direct visual and physical impacts to the GW Memorial Parkway. The coordination that is outlined in the Applied Minimization section on page 30 of the Section 4(f) evaluation suggests NPS has agreed to the nested ramp option, which is not accurate. The NPS requests alternatives be evaluated that do not expand existing direct access to the GW Memorial Parkway.

We believe there are avoidance and minimization options such as those provided by the Virginia Department of Transportation (VDOT) on its I-495 Northern Extension project (I-495 Next), a companion project that connects to the MDOT SHA project at the American Legion Bridge. VDOT coordinated closely with NPS regarding the effects of new infrastructure on the GW Memorial Parkway which resulted in a design that requires minimal parkland and a reduced amount of required signage. The Managed Lanes Study could benefit from VDOT's model and reduce impacts to parkland for both roadway infrastructure and signage.

GREENBELT PARK

Greenbelt Park was established by Congress on August 3, 1950, through Public Law 81-643 together with the BW Parkway, which traverses the park. Greenbelt Park is part of the comprehensive and continuous development of the park system of the national capital. The park provides high quality camping, picnicking, and hiking in wooded areas and along stream corridors, preserving forests and contributing to the protection of water quality in the Anacostia River watershed. The park features a 174-site campground, nine miles of trails, and three picnic areas. Many local residents come to camp, hike, picnic, and run. The park provides them all the experiences of traditional parks, close to home. Greenbelt is determined eligible for the National Register of Historic Places.

The build alternatives' effects on Greenbelt Park are from the widening of I-495, the realignment of the ramp from eastbound Greenbelt Road to southbound BW Parkway, augmentation and repair of an existing storm drain outfall, and access for construction vehicles. Work within the park includes tree removal, grading, augmentation of storm drain outfall pipes, construction of a retaining wall, and access for construction equipment and materials. A portion of the perimeter trail may need to be relocated near the ramps from Greenbelt Road to the southbound BW Parkway.

Although a small urban park, approximately 130,000 recreational visitors a year come to Greenbelt Park. The impacts to this area from this project will greatly affect the visitor experience of these users and has not been sufficiently evaluated in the DEIS. Greenbelt Park contains a popular campground used by 20,000 visitors a year, which would be affected by the increase in noise and removal of vegetation as well as the aforementioned trail relocation. Impacts to wetlands and vegetation would damage the native forests that provide scenic views for visitors, and fragment wildlife habitat.

SECTION 4(F) EVALUATION

With regard to the draft Section 4(f) evaluation, the DOI understands that there will likely be no feasible and prudent alternatives that avoid use of at least some of the Section 4(f) properties

identified. Even with that understanding, we find the Avoidance Analysis presented in Section 3 of the Section 4(f) evaluation to be insufficient in its overall analysis. It applies an all-or-nothing approach to the avoidance of all the Section 4(f) resources, concluding that all avoidance of all Section 4(f) resources would involve new alignments and tunneling at the cost of tens of billions of dollars. This approach supports an argument that avoidance is neither feasible nor prudent, where analysis of specific individual measures could avoid some Section 4(f) properties or provide substantial minimization options while still meeting the purpose and need. What limited location specific avoidance analysis is included does not evaluate avoidance of each Section 4(f) property equally. There is, for example, no analysis of an alternative that does not provide direct access to the BW and GW parkways.

Pursuant to 23 CFR 774.3(c)(1), if the avoidance analysis determines that there is no feasible and prudent avoidance alternative, then only the alternative that causes the least overall harm may be approved. And pursuant to 23 CFR 774.3(c)(2), the alternative selected must include all possible planning to minimize harm to Section 4(f) property. The Section 4(f) evaluation could take a broader approach to the avoidance analysis for Section 4(f) properties and supplement the least harm analysis to include additional measures, such as those proposed by NPS. Currently the least harm analysis assumes that the existing Section 4(f) properties were already impacted by the development and subsequent expansions of I-495 and that impacts from this project are therefore inconsequential, which is not the case.

To minimize harm, the FHWA and MDOT MDSHA should consider additional alternatives that are feasible and prudent before making decisions regarding whether “all possible planning” to minimize harm has been met, as defined in 23 CFR 774.17. The information gathered through continued planning as part of the I-495 & I-270 Managed Lanes’ Section 106 consultation process, resolution of the range of alternatives, and other related Section 4(f) coordination activities will help inform the Section 4(f) evaluation and guide the selection of the alternative that causes least harm. DOI and NPS look forward to continued coordination with this effort.

WILDLIFE COMMENTS

This project is within the range of the federally threatened northern long-eared bat (NLEB; *Myotis septentrionalis*). The NLEB is a temperate, insectivorous migratory bat that hibernates in mines and caves during the winter. The NLEB spends summers in wooded areas and has been known to use highway bridges as roost sites. Based on the completed *NLEB 4(d) Rule Streamlined Consultation Form* submitted by FHWA, this project may rely on use of the Service’s January 5, 2016, *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions* to fulfill its Section 7(a)(2) consultation requirement. The FWS will continue to coordinate with FHWA to develop voluntary Section 7(a)(1) measures to further the conservation of the NLEB.

In addition, the DEIS Bat acoustic surveys conducted between 2016 and 2018 by Virginia Tech suggests the federally endangered Indiana bat (*Myotis sodalis*) may also be present near the project area. The Indiana bat is also a temperate, insectivorous migratory bat that hibernates in mines and caves during the winter, spends summers in wooded areas, and has been known to roost in highway bridges. Appendix L of the DEIS (Sec 2.10.2.A, pg. 155-156) states that during summer 2020, MDOT SHA proposed and conducted an acoustic and visual bridge survey. That

survey is now complete, and it has been determined that Indiana bat are not present along the project corridor, so no further Section 7 consultation for the Indiana bat is required.

GENERAL COMMENTS

The DEIS states that stormwater management facilities will be located on NPS lands (DEIS pp. 4-19). The NPS has requested that no stormwater management features be proposed on NPS units. On page 6-8, the DEIS more accurately reflects this understanding: “*In response to NPS comments, all stormwater management surface facilities were removed from NPS property except for scuppers on the American Legion Bridge, which are needed due to the profile change from the Clara Barton Parkway to the Potomac River. MDOT SHA explained that a much longer bridge would be needed to avoid the use of scuppers but committed to planning the locations of the scuppers to minimize impact to NPS property.*” The NPS approval of the use of NPS lands for MDOT MDSHA stormwater features will require that these scuppers on the bridge be designed to avoid to the extent practicable directly impacting the NPS-administered properties below the bridge. Stormwater facilities that are not directly associated with the park management needs are inconsistent with the purpose of these NPS units.

The DEIS analyzes viewsheds and visual impacts from the point of view of someone traveling along the interstate rather than from a visitor within a park and NPS needs to evaluate how the new interstate infrastructure affects views or vistas towards the I-495 corridor from NPS lands. The NPS can provide a list of viewpoints to be considered. The visual impacts for each of the NPS-administered units affected by the project will vary, as impacts from new infrastructure will vary based on location and the amount of disturbance from the project.

We appreciate the close coordination FHWA and MDOT SHA have had with the NPS and the Department on this project and are confident, through close collaboration, that those issues we have identified in this letter can be resolved in a manner acceptable to all. For further coordination, please contact: Tammy Stidham, National Park Service, Region 1 – National Capital Area, Deputy Associate Area Director, Lands and Planning at 202-438-0038 or tammy_stidham@nps.gov.

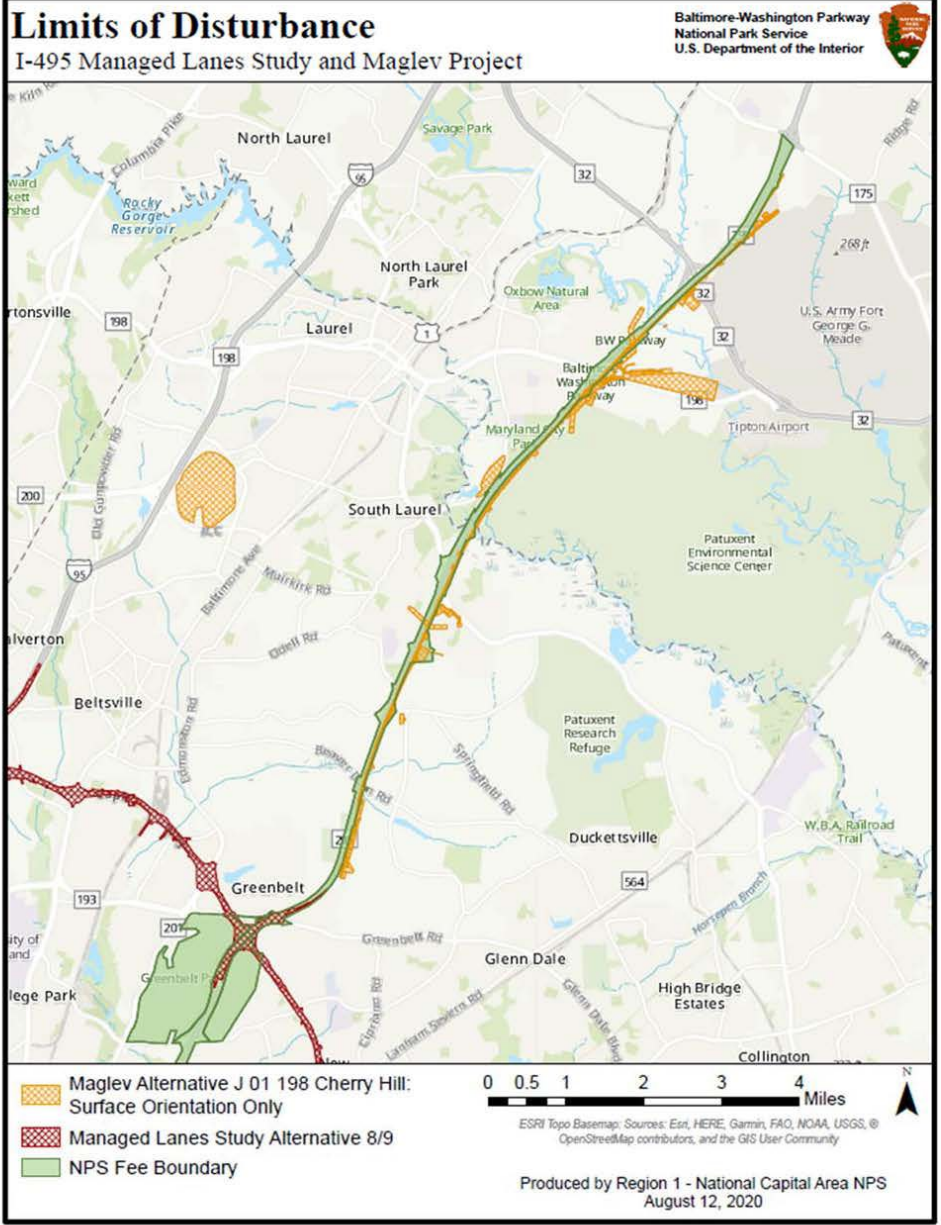
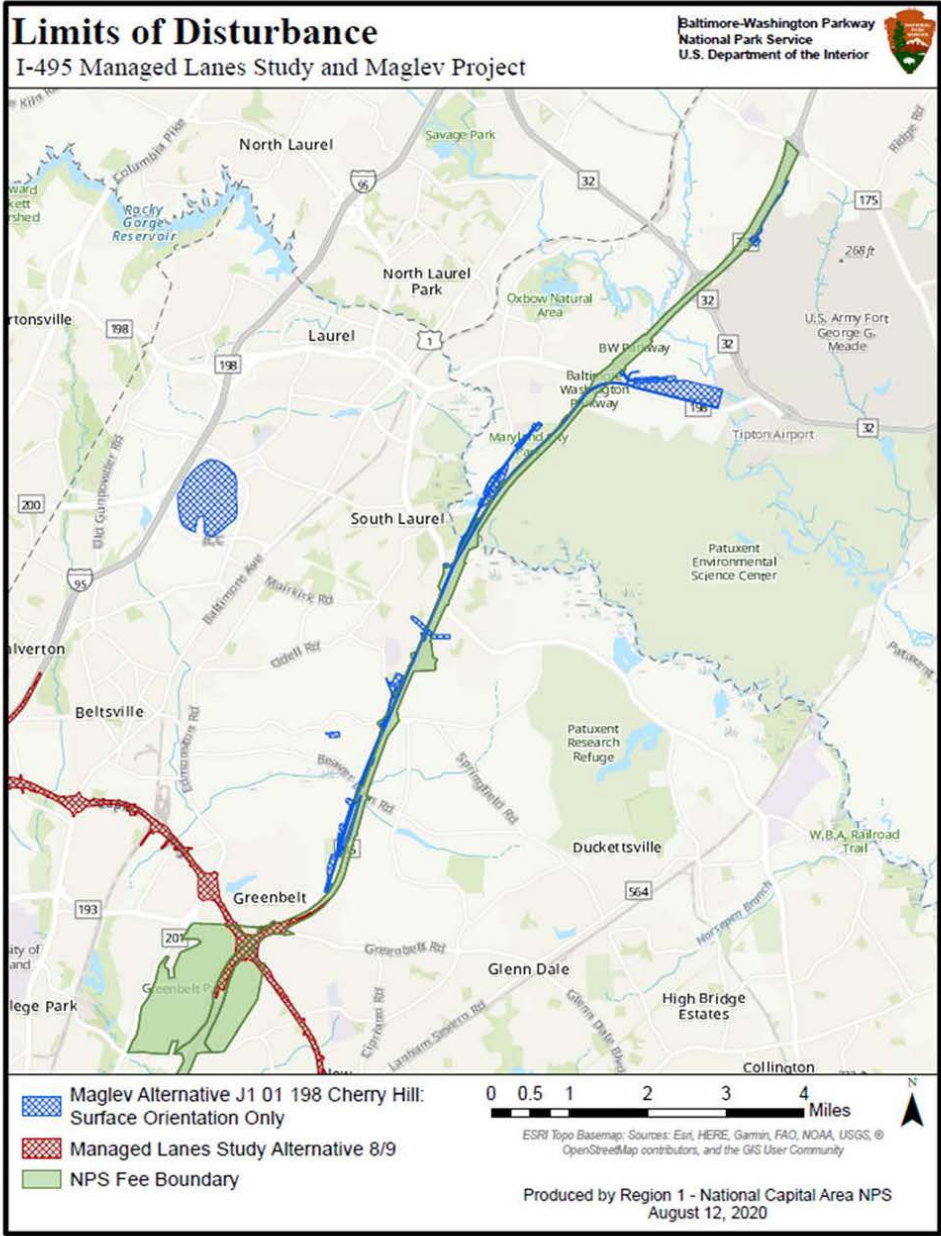
Sincerely,



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JOHN NELSON
Date: 2020.11.09
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John V. Nelson
Regional Environmental Officer

cc: Tammy Stidham, NPS
Ray Li, FWS



I-495 & I-270 MLS DEIS (July 2020)
NPS Detailed Comments - DEIS

ID	Page	Section	Comment
1	General	Overall Comment	Effects: on the B-W parkway must be considered when assessing impact of direct access ramps from Managed lanes. Five major private, state and federal projects are proposed along the narrow B-W Parkway corridor between MD-410 and MD 32. These projects include the Boring Company Transit project, MDOT's Purple Line project, MDOT's Managed lane project, the federal/state MAGLEV project and Dept of Treasury Beltsville facility project affecting Powder Mill Road interchange.
2	General	Overall Comment	The need to acquire parkland as part of this project is missing from Chapter 4 sections that discuss property acquisitions required for build alternatives. Table 4-4 is a good example of this as it only includes property acquisitions that include business and residential properties. Parks should be included in this list as well as in the discussion in section 4-5. In section 4-5 there is no mention of the need to acquire parkland as part of this project. Table 4-7 is also missing the parkland acquisitions required
3	General	General	It is unclear from the DEIS how much of the LOD is permanent vs. temporary.
4	General	Overall Comment	The DEIS should include information regarding the NPS Federal Lands to Parks Program (FLP), the NPS' oversight role to enforce deed restrictions in transferred parkland and the Federal government's reserved reversionary interest in certain local parks in the project area. ***additional background below
5	General	Overall Comment	Any impacts to FLP-transferred land will need to be mitigated. NPS would determine the mitigation measures in collaboration between the current owners of the properties and other agencies involved in the project, and the course of action would be subject to approval of the General Services Administration. The NPS is responsible for ensuring compliance and mitigation and amending the relevant property deeds if needed (See Federal Management Regulation 102-75.680 and 102-75.685). Therefore, the NPS FLP Program coordinators should be included in collaboration and discussions regarding the affected parks.
6	General	Overall Comment	Four parks listed in the Draft EIS were deeded in full or part through the NPS FLP to the Maryland National Capital Park and Planning Commission. These parks (or portions) are restricted to public park and recreation use in perpetuity. Cherry Hill Road Park, 42.91 acres, was deeded in two transactions in 4/22/1980 and 1/14/1992; 42.11 acres remain deeded for public parks and recreation (see below). A portion of Hollywood Park, 6.37 acres, was deeded 11/14/1975. Sunnyside Park, 8.84 acres, was deeded in two parcels on 6/06/1977 and 2/26/1992. Powder Mill Park, 18.9 acres (part of Paint Branch Creek Park Unit 3 in the DEIS) was deeded 11/14/1975.
7	General	Overall Comment	Cherry Hill Road Park: NPS believes all of Cherry Hill Road Park is under the NPS FLP requirements. The DEIS does not reference the deed requirements for parks and recreation, the reverter in the deed, nor the NPS role in compliance, all of which should be captured. The DEIS indicates a small portion of the park will likely be impacted and therefore mitigation under the NPS FLP Program will be needed.
4	ES-18		Construction SUPs are not the only action from NPS. Highway easement is missing.
5		Chapter 2	The alternative screening process discussed at the start of chapter 2 seems to have occurred with no consideration to 4(f).
6	p.2-6		The "environmental" element to purpose and need seems misleading, as it was not included during the alternative screening process.
7	pg 4-5		The land use map does not accurately reflect the boundaries of the George Washington Memorial Parkway and the Clara Barton Pkwy and Potomac River, as they show quite a bit of brown shading (residential) that is actually parkland. Also, the maps show NPS property within the study area as park/open space instead of NPS lands which is dark green.
8	Pg 4-10	4.2.3	What does increase telework do to revenue model and the financial viability?
9	pg. 4-16		The NPS disagrees with the following generalization that, based on the content of the DEIS, is not supported by appropriate analysis: "The views from adjacent properties, including residential properties, commercial enterprises, parkland/ open space properties, and a number of community resources would experience an impact; however, impacts would generally be consistent with existing views of the study corridors as the surrounding area is adjacent to the existing interstate facilities and the surrounding area is urban in nature." The potential impacts to currently forested areas and wholesale removal of this vegetation would dramatically change the views and appearance of the area and views from the NPS lands.
10	pg. 4-19	4.4.2	Correct name - Chesapeake and Ohio Canal National Historical Park
11	pg. 4-19	4.4.2	Clara Barton Parkway is missing - Review Chapter 5, Figures 5-1 through 5-3 and Appendix D
12	pg. 4-19	4.4.3	Correct name the NPS park names - Chesapeake and Ohio Canal National Historical Park and add Clara Barton Parkway when discussing the larger area property impacts.
13	pg. 4.19		Locations for the proposed SWM structures need to be identified. DEIS states the following, "Stormwater management was eliminated from NPS property to the maximum extent practicable. At certain locations stormwater management facilities are required on NPS property because there is no other viable location to treat stormwater, such as at the American Legion Bridge and Baltimore Washington Parkway." NPS has not been provided any details related to stormwater facilities on parkland. Placement of Stormwater Management facilities on NPS properties in support of this project requires NPS approval. Any placement of SWM measures on NPS property would result in NPS receiving MDE "credits".

I-495 & I-270 MLS DEIS (July 2020)
NPS Detailed Comments - DEIS

ID	Page	Section	Comment
14	pg 4-19		The Baltimore Washington Parkway should be called out as the other NPS parkways in the paragraph listing properties.
15	Pg 4-19	4.4.2	Para 3: Add Baltimore Washington Parkway to list of largest parks in CEA analysis area.
16	Pg 4-20	4.4.4	Recommended mitigations to affected property owners may fall outside the immediate area with impacts but still within a particular watershed.
17	pg 4-29+	4.6	Visual and Aesthetic Resources doesn't include cultural landscape/visual attributes of GWMP (incl CLBA Pkwy) purpose of protecting the natural scenery of the gorge of the Potomac as defined in the Capper-Cramton legislation; nor is it included under Section 4.7 which seems to address cultural resources/historic properties.
18	Pgs 4-29 to 4-35	Section 4.6	This section focuses on viewshed impacts to I-495 and I-270. However more significant viewshed impacts from this project will affect historic NPS properties. There is no mention of impacts to the Baltimore Washington parkway and Greenbelt Park. Visual impact assessments are also required for these properties.
19	pg. 4-34	4.6.3	DEIS States, "Where new direct access at-grade auxiliary lanes or ramps would be constructed, visual impacts would be readily apparent, but would not contribute to a change in the character of the existing viewsheds. These impacts would include widened roadways, increased amounts of pavement, and new ramps and elevated structures adjacent to the existing study corridors. However, views outside of the study corridors and to the periphery would not be affected. In sum, the viewsheds following construction of a Build Alternative would generally be consistent with existing viewsheds associated with the study corridors." - The visual impacts will be very apparent and substantial. Views from NPS lands to the project need to be considered.
20	pg. 4-34	4.6.3	A Visual Impact Assessment only documents the impacts, it does not mitigate them. Avoidance is more the preference, in addition to Context Sensitive design and reflected in the analysis.
21	pg 4-34		More specificity and detail are required for tree removal on NPS properties.
22	pg. 4-35	4.6.4	Mitigation is not just for tree impacts, but also the understory, soil and flora and fauna impacts for the biodiverse Potomac River Gorge area.
23	pg. 4-35	4.6.4	The NPS appreciates that Maryland law requires on-site planting and that aesthetic treatments are considered mitigation. However, the NPS has a no net loss policy when it comes to trees on NPS land and would require that the specific amount of DBH impacted would need to be replaced and not a tree for tree replacement and not necessarily within the area affected. Also the NPS does not consider aesthetic treatments as mitigation for tree loss.
24	pg. 4-34	4.6 Visual and Aesthetic Resources, 4.6.3	DEIS states, "Construction would require the removal of vegetation to varying degrees throughout the study corridors. Larger areas of tree removal near the American Legion Bridge on NPS property will be needed for construction and cannot be accommodated elsewhere due to the steep slopes. As a result of the vegetation removal, the wider interstates, added ramps, retaining walls, and noise barriers would become more visible and prominent from both the dynamic and static views. The static views from adjacent properties, including residential properties, commercial enterprises, parkland/ open space properties, and a number of community resources would experience an impact. In general, however, impacts would be consistent with existing views along the majority of the study corridors because of the dominant presence of the existing interstate facilities and the surrounding area's urbanized nature." - It is not clear how this broad generalization is correct given the lack of supporting analysis and the expected large areas of tree removal near the ALB on NPS property needed for construction. Acknowledge the sensitive nature of the resource that has finally recovered from the impacts of the original construction in the early 1960s.
25	pg 4-35+	4.7	Discussion of historic structures and archeological sites does not adequately treat cultural landscapes/view sheds for GWMP (incl. CLBA Parkway).
26	p. 4-38		Should also include NPS comments on the potential archeological district, not just VDHR's. Needs to include NPS NRHP opinion from the Keeper's office that there appears to be a NRHP Archeological District present but needs a robust statement of significance to render a DOE; also follow through with same on P. 4-43 and on PP. 4-54 - 55, and 4-56
27	pg. 4-44		Beyond setting and feeling, the proposal will affect the design, workmanship, and materials of the identified resources specifically, the BAWA.
28	Pg 4-44	Table 4-11	For NPS properties add viewshed impacts.
29	Pg 4-47	4.7.3.A.a	For the B-W Parkway significant changes to earlier design proposals are identified and once understood will likely increase impacts previously voiced. This design change includes the addition of a noise wall, replacement of the existing bridge over I-495, and realignment of the interchange area and replacement of the Greenbelt Road bridge. The discussion does not adequately describe the increased signage extending beyond the impact area which has been an area of concern expressed in previous meetings with the project team.
30	pg 4-48		GWMP/Clara Barton Pkwy entry - needs more introductory description; specifically, the Capper-Cramton Act protecting the natural scenery of the gorge of the Potomac language and acknowledgement that a purpose was to protect gorge from development

I-495 & I-270 MLS DEIS (July 2020)
NPS Detailed Comments - DEIS

ID	Page	Section	Comment
31	pg. 4-48		Under c. it says to build two new American Legion bridge structures, but under b. it mentions just one replacement of the ALB. please clarify
32	pg. 4-48	4.7.3 B.c. GWMP	The construction access has not been decided upon. This should be stated. In consultation with the National Park Service, various access routes and options are being discussed. The narrative as written gives the impression that the approach is a given. More discussion specific to access routes and methodology for doing the work.
33	Apr-48	4.7.3 CHOH	This section states that "These activities would require the temporary closure of the canal towpath for the construction and removal of the grade separated crossings that would be in place during construction of the new American Legion Bridge, which is anticipated to last between four and five years." The project will be required to work with the NPS to develop a detour for the users to access the trail and then completely rehabilitate the area.
34	pg 4-49		Concerning the reference to a "linear stormwater management facility that will extend onto Clara Barton Parkway," is this a new design element? Stormwater structures on NPS properties has not been discussed with the NPS.
35	pg. 4-49		Official name is "Clara Barton Parkway" not "Clara Barton Memorial Parkway"
36	Pg 4-50	4.7.3.A.e	For Greenbelt Park additional impacts should be included such as reduced vegetation buffer between the park and a significant roadway. In addition, the NPS believes there will be significant noise impacts from this reduced buffer as well as elevated roadways on and off the parkway. With the realignment of Perimeter trail, the trail will likely be squeezed next to a major road in the park and the new park boundary. In these instances, features within the park <u>would be</u> physically affected.
37	pg 4-55+		DEIS says very little regarding mitigation. Additional coordination with the NPS is required to determine proper mitigations.
38	pg 4-55+		Mitigation section 4.7.4 does not really speak to the historic property cultural landscape/visual attributes of GWMP (incl CLBA Pkwy) purpose of protecting the natural scenery of the gorge of the Potomac.
39	Pg 4-63 and on	General	For 4.9 Noise, the criteria for "noise" is described as above 75dB(A), but what is the current noise level experienced by park visitors during full and minimal foliage periods? Consider that any increase beyond current levels is a negative impact. To mitigate noise in areas 16 and 17 (page 4-69), elevated barriers rising up to 21 feet along the B-W Parkway interchange have been proposed. Currently no noise barriers are in place along the length of the parkway. Any construction of noise barriers is inconsistent with current architecture on this listed property. Recommend reconsideration of need for elevated direct access ramps onto and exiting the parkway.
40	pg. 4-67	Noise Barriers	The placement of noise barriers on NPS lands is new to the NPS. NPS would want the placement of any noise barriers to be within MDOT existing ROW
41	pg 4-80		Table 4-19 add the number of acres of each feature type.
42	pg 4-81		Table 4-20 define abbreviations in table headers "square feet and acres?"
43	Page 91		Dead Run should be on this list of streams that may be impacted, and added to appendix M. Please clarify if otherwise.
44	pg. 4-96	Floodplains	Add Dead Run to the list. APE includes the bridge over Dead Run
45	Page 98		The discussion on forests should reflect a review, with citation, of: Fleming, G.P. 2007. Ecological communities of the Potomac Gorge in Virginia: composition, floristics, and environmental dynamics. Natural Heritage Tech. Rep. 07-12. Virginia Department of Conservation and Recreation, Division of Natural Heritage, Richmond. Unpublished report submitted to the National Park Service. 341 pp. plus appendices. It discusses the rare plant communities of Turkey Run Park that could be impacted by this project.
47	Pg 4-100	Table 4-26	Previous section has noted tree removal along the B-W Parkway, in particular the median area. If direct access ramps were no longer pursued, what is the impact to the tree canopy?
48	4-100	Table 4-26	Table notes that tree canopy impacts to Greenbelt are .8 acres but noted on table 4-5 pg 4-20, the entire park impacts are .6 acres. How are the tree impacts higher than the overall impacts? Also, tree impacts to C&O are noted as 16.6 acres while overall park impacts are 15 acres. Please clarify.

I-495 & I-270 MLS DEIS (July 2020)
NPS Detailed Comments - DEIS

ID	Page	Section	Comment
49	Page 101		"Data on wildlife habitat... " this should include the numerous journal articles (backed up with museum specimens) provided in previous reviews (**listed below). With the abundance of published information there is no reason for data to be based on "incidental observations." Chapter 10, which includes the list of literature reviewed for the preparation of the EIS does not include any of the 22 references provided in previous reviews of the EIS (these are provided again below). Please add all of these to Chapter 10. All of the papers are available on-line or you can email brent_steury@nps.gov to receive copies. The Potomac Gorge is one of the most studied natural areas in North America. Between the studies conducted on Plummers Island by the Washington Biologist Field Club dating back over 100 years and the more recent studies conducted by GWMP, the Potomac Gorge is one of the most important long-term biological study sites in North America.
50	Page 101		There is no mention of invertebrates (arthropods and gastropods) - one of the best studied and most numerous life forms in the project area.
51	pg 4-106		Table 4-28 Add Dead Run.
52	pg. 4-114	4.19. Rare, Threatened, and Endangered Species SSPRA	The sensitivity of the Potomac River Gorge needs to be considered.
53	pg 4-144+	4.22	ICE and P4-148 Section 4.22.2 Past & Present Land Use do not address land protection measures inherent in the GWMP purposes in accordance with Capper-Cramton.
54	pg 4-153 Section 4.7, Table 4-40 & 4-41		Echoing comments above re: cultural landscapes, several of these properties (e.g. GW Parkway, CB Parkway) are documented cultural landscapes with character-defining features that need to be considered, just as with other types cultural resources.
55	pg. 4-154		Cultural landscapes should be identified under the Cultural Resources section.
56	pg 6-8		Section 4(f) states the following: "In response to NPS comments, all stormwater management surface facilities were removed from NPS property except for scuppers on the American Legion Bridge, which are needed due to the profile change from the Clara Barton Parkway to the Potomac River. MDOT SHA explained that a much longer bridge would be needed to avoid the use of scuppers but committed to planning the locations of the scuppers to minimize impact to NPS property." However, in the DEIS in multiple locations it describes actions on NPS lands to include stormwater facilities. On page 4-19 it states that, "At certain locations stormwater management facilities are required on NPS property because there is no other viable location to treat stormwater, such as at the American Legion Bridge and Baltimore Washington Parkway." This discrepancy needs to be resolved.
57	pg 6-8		In addition to the SUP and highway authorities mentioned, NPS authority and responsibility under its Organic Act should be included: The NPS Organic Act, as amended and supplemented, requires NPS to leave park resources "unimpaired for the enjoyment of future generations" and prohibits it from authorizing any activities "in derogation of the values and purposes for which the System units have been established." 54 U.S.C. 100101. NPS will not ultimately be able to provide the required authorizations unless the final selected project can be shown not to cause such impairment. Impacts are not purely a NEPA analysis issue but could pose a substantive obstacle preventing NPS from authorizing its part of the project.
58	Appendix F	sec 2.1.24 pg 76	Cherry Hill Road Park is 42.1 acres, acquired from the Federal government in 1980. In actuality, the NPS FLP program originally transferred 42.91 acres for the park in two actions in 1980 and 1992, with 0.8 acres reverted in 1985 for road widening purposes, leaving 42.11 acres under the FLP program. While the DEIS references a section of the original deed citing authority to take a portion of the property for road widening, further research is needed to affirm whether this authority was limited to and exercised in the 1985 reversion of 0.8 acres.
59	Appendix F	Table 2.1 pg 24	The DEIS identifies Hollywood Park as 22.3 acres. While the FLP data base lists only 6.37 acres are subject to the FLP program deed restrictions, our files confirm the land is adjacent to the I-495 Beltway and the FLP acres may therefore be impacted and require mitigation for a conversion of use.
60	Appendix F	Table 2.4 pg 27	Powder Mill Park, 18.9 acres transferred through the NPS FLP Program, was not identified in the DEIS but appears to be part of DEIS-listed Paint Branch Stream Valley Park Unit 3. Although Appendix F, Table 2.4, page 27 states there will be no use or impact to the park, NPS has concerns because the FLP parcel is adjacent to I-95.

I-495 & I-270 MLS DEIS (July 2020)
NPS Detailed Comments - DEIS

ID	Page	Section	Comment
61	Appendix F	Table 2.4 pg 27	Sunnyside Park, 8.84 acres: Appendix F, Table 2.4, page 27 states there will be no use or impact. The DEIS did not identify the role of the NPS FLP Program in this park nor the perpetual deed requirements and reverter clause.
62	Appendix L	Sec 2.8.1 pg. 107	This section of the appendix implies that U.S. Department of the Interior Solicitor’s Opinion M-37050 applies to the Bald and Golden Eagle Protection Act (BGEPA). Bald eagles are protected by the BGEPA and the Migratory Bird Treaty Act (MBTA). However, Opinion M-37050 is specific to the MBTA and does not apply to the BGEPA.
63	Appendix L	Sec 2.8.1 pg. 107	For purposes of citation, the full list of prohibited acts under the Bald Eagle and Golden Eagle protection Act (BGEPA) is provided at 16 U.S.C. 668, whereas the definition of “disturb” is found in BGEPA’s implementing regulation (50 CFR 22.3) and not within the statute.

**literature review for comment #49 -----

1) Barrows, E.M. & D.R. Smith. 2014. Sawflies (Hymenoptera, Symphyta) of three Mid-Atlantic Parks in the George Washington Memorial Parkway, U.S.A. Journal of Hymenoptera Research 39:17-31. 115 species of sawflies in Turkey Run Park. One species, Kerita fidala, is NEW TO

2) Brattain, M. R., B. W. Steury, A. F. Newton, M. K. Thayer, and J. D. Holland. 2019. The rove beetles (Coleoptera: Staphylinidae) of the George Washington Memorial Parkway, with a checklist of regional species. Banisteria 53: 27-71. 125 species of rove beetles in Turkey Run Park. 25 species

3) Cavey, J.F., B.W. Steury, & E.T. Oberg. 2013. Leaf beetles (Coleoptera: Bruchidae, Chrysomelidae, Orsodacnidae) from the George Washington Memorial Parkway, Fairfax County, Virginia. Banisteria 41:71-79. 41 species of leaf beetles in Turkey Run Park.

4) Cohn, J.P. 2004. The wildest urban river: Potomac River Gorge. BioScience 54:8-14. This would be an excellent paper to cite in the Existing

5) Evans, A.V. & B.W. Steury. 2012. The Cicada Parasite beetles (Coleoptera: Rhipiceridae) of Virginia. Banisteria 39:65-70. 2 species of cicada parasite beetles in Turkey Run Park. One species, Sandalus petrophya, is NEW TO VIRGINIA.

6) Flint, O.S., Jr. 2011. Trichoptera from the Great Falls and Turkey Run units of the George Washington Memorial Parkway, Fairfax Co., Virginia,

7) Steury, B.W. 2014. Aquatic snails (Gastropoda) from national park sites in northern Virginia and adjacent Maryland, with an updated checklist of regional species. Banisteria 44:13-18. 6 species of aquatic snails in Turkey Run Park, including the only GWMP record of the limpit Laevapex fuscus 8)Steury, B.W. 2017. First record of the rove beetle Trigonodemus striatus LeConte (Coleoptera: Staphylinidae) from Virginia and additional new park records (Coleoptera: Anthicidae, Buprestidae, Carabidae, Cerambycidae, Chrysomelidae) for the George Washington Memorial Parkway.

9) Steury, B. W. 2018. Annotated checklist of some fungivorous beetles (Coleoptera: Anamorphidae, Biphyllidae, Derodontidae, Endomychidae, Erotylidae, and Tetratomidae) of the George Washington Memorial Parkway. Banisteria 50: 21-28. 27 species of fungus beetles in Turkey Run Park. Four species, Tritoma erythrocephala, Microsternus ulkei, Tritoma mimetica and Hallomenus scapularis, are NEW TO VIRGINIA.

10) Steury, B. W. 2018. Four longhorned beetles (Coleoptera: Cerambycidae) new to Virginia and additional new park records (Coleoptera:

11) Steury, B. W. 2019. The ant-like leaf beetles (Coleoptera, Aderidae) of the George Washington Memorial Parkway, Fairfax County, Virginia. Banisteria 52: 46-49. Four species of ant-like leaf beetles from Turkey Run Park including the FIRST VIRGINIA RECORD of Aderus brunnipennis.

12) Steury, B.W., J. Glaser, & C.S. Hobson. 2007. A survey of macrolepidopteran moths of Turkey Run and Great Falls National Parks, Fairfax County, Virginia. Banisteria 29:17-31. 222 moth species documented from Turkey Run Park including the FIRST VIRGINIA RECORD of Abrostola

13) Steury, B. W. & J. M. Leavengood, Jr. 2018. Annotated Checklist of Checkered Beetles from the George Washington Memorial Parkway, Virginia (Coleoptera, Cleridae). Banisteria 51: 52-58. Ten species of Checkered Beetles from Turkey Run Park.

14) Steury, B.W. & P.W. Messer. 2014. Twelve Ground Beetles New to Virginia or the District of Columbia and an Annotated Checklist of the Geadephaga (Coleoptera, Adephaga) from the George Washington Memorial Parkway. Banisteria 43:40-55. 110 species of ground beetle in Turkey Run Park. Two species, Scarites vicinus and

15) Steury, B.W. & T.A. Pearce. 2014. Land Snails and Slugs (Gastropoda: Caenogastropoda and Pulmonata) of two National Parks along the Potomac River near Washington, District of Columbia. Banisteria 43:3-20. 22 species of land snails and slugs in Turkey RunPark.

16) Steury, B.W. & T.C. MacRae. 2014. The longhorned beetles (Insecta: Coleoptera: Cerambycidae) of the George Washington Memorial Parkway. Banisteria 44:7-12. 37 species of longhorned beetles in Turkey Run Park. Four species, Centrodera decolorata, Trachysida mutabilis, Clytus ruricola,

17) Steury, B.W., T.C. MacRae, & E.T. Oberg. 2012. Annotated list of the metallic wood-boring beetles (Insecta: Coleoptera: Buprestidae) of the George Washington Memorial Parkway, Fairfax County, Virginia. Banisteria 39:71-75. Five species of metallic wood-boring beetle are documented the George Washington Memorial Parkway. The Maryland Entomologist 7:11-27. 14 species of soldier beetles in Turkey Run Park. Seven species are First Records for Virginia.

19) Flint, O.S., Jr. & K.M. Kjer. 2011. A new species of Neophylax from northern Virginia, USA (Trichoptera: Uenoidae). Proceedings of the Entomological Society of Washington 113:7-13. A new species of caddisfly from Turkey Run Park, Neophylax virginica.

Columbia, Maryland, and Virginia. Pp. 261-276 In S. M. Roble and J. C. Mitchell (eds.). A Lifetime of Contributions to Myriapodology and the Natural History of Virginia: A Festschrift in Honor of Richard L. Hoffman’s 80th Birthday. Virginia

Museum of Natural History Special Publication No. 16, Martinsville, VA. Documents a new species of amphipod from Turkey Run Park, *Stygobromus sextarius*.
21) Mathis, W. N., K.V. Knutson & W.L. Murphy. 2009. A new species of the snail-killing fly of the genus *Dictya* Meigen from the Delmarva States (Diptera: Sciomyzidae). *Proceedings of the Entomological Society of Washington* 111(4): 785-794. A new species of fly from Turkey Run Park,
22) Mathis, W. N. & T. Zatwarnicki. 2010. New species and other taxonomic modifications for shore flies from the Delmarva States (Diptera:

***The NPS FLP Program deeds former surplus Federal land to local government entities solely for public parks and recreation use in perpetuity under authority of 40 U.S.C. 550 (b) and (e). If transferred lands are not used accordingly or in the case of the I-495/I-270 Expansion project, they are needed for another purpose, the lands are subject to reversion back to federal ownership as stated in the property deeds. However, the NPS may consider other compliance remedies before exercising reversion. Typically affected park lands may be replaced with land that has equal or greater fair market value and recreational utility (similar to the requirement of the Land and Water Conservation Fund grant requirements), or less frequently, deed requirements may be abrogated with payment of fair market value. Another option to explore potentially is to amend the terms of the transfer and deed to another federal “public benefit conveyance” program. We are not familiar enough with 40 USC 1304(b) for “Widening of Public Roads” to advise whether this could be applied to this project.

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Environmental Protection Agency - DEIS Comments

No.	Page	DEIS Section	Comment	Response
1	General	General	As the project is a design-build in a large study area, it is recognized that the DEIS does not include design details nor refined analysis of environmental impacts. A Preferred Alternative is not identified in the DEIS. We anticipate that additional avoidance and minimization of adverse impacts can be achieved in more advanced design phases. We suggest the final EIS refine the discussion of resource characterization and impacts; and that the Preferred Alternative show further avoidance of resources, including floodplains, wetlands and stream crossings, and evaluate and minimize effects to streams and water quality from culverts. EPA suggests that the study document how public and interagency engagement will continue throughout the planning, design, and construction process.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>As noted by EPA, efforts to further avoid and minimize impacts to resources continued between the DEIS / SDEIS and the FEIS. Coordination will continue through design and construction with MDOT SHA and the Developer.</p> <p>The FEIS provides a break down of the permanent and temporary impacts and describes the mitigation associated with unavoidable impacts for the Preferred Alternative and specific to Phase I South. Refer to FEIS Chapter 5 and FEIS Appendix M Final Natural Resources Technical Report.</p>
2	ES-20 & ES-21	Project Construction Phases	The Project is proposed as a Public-Private Partnership (P3). Due to the magnitude of the Study, the P3 project may be constructed in phases. As described in the Executive Summary ES-20 and ES-21, Phase I may include the construction of an additional project along I-270 to I-70. This section of road is being evaluated under an independent NEPA analysis. It is not clear in the DEIS why the proposed Phase I construction approach should include the additional work on I-270 at I-70 in Frederick, MD, prior to constructing the I-495 (Beltway) improvements identified in the I-495/I-270 MLS DEIS. The prioritization of Phase I work from I-495 South of the George Washington Memorial Parkway to the I-270 at I-70 appears to modify the logical termini evaluated in the I-495/I-270 MLS DEIS and deviates from the purpose and need of I-495/I-270 MLS improvements. EPA recommends that the MLS final EIS include the rationale for separating the I-270 to I-70 and the I-495/I-270 MLS NEPA analysis. In addition, EPA suggests clarifying whether combining the two projects into one EIS could have altered the traffic modeling and screening of alternatives.	<p>The logical termini for the Managed Lanes Study was determined during scoping and was based upon unique traffic patterns as distinguished from I-270 North. While they are studied separately to allow for different alternative analysis under NEPA, procurement efforts and construction phasing have different considerations. As noted by EPA, a project may be constructed in phases. The identification of Phase 1, broken into "Phase 1 South" and "Phase 1 North" that includes I-495 from the George Washington Memorial Parkway in Virginia to I-270 and along I-270 to I-70 was for solicitation purposes for a Developer under a P3 Agreement and is separate from the NEPA effort for the MLS or Pre-NEPA effort for the I-270 North Study.</p> <p>As noted in the response to comment #1 above and included in the SDEIS and FEIS, the limits of build improvements associated with the Preferred Alternative are now focused within the area known as Phase 1 South. It includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies. The Phase 1 North section of I-270 from I-370 to I-70 is a separate, independent planning study that is in Pre-NEPA.</p>

No.	Page	DEIS Section	Comment	Response
3	General	Project Construction Phases	The limit of disturbance (LOD) is defined as the proposed boundary within which all construction, construction access, staging, materials, storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, and related activities would occur. Since the Project is a design build, includes phased construction, may be awarded to multiple contractors, and involves offsite mitigation, EPA recommends that additional information be included regarding how impacts and environmental effects will be identified, documented, and/or mitigated should the LOD expand to other sites beyond the LOD identified in the DEIS.	<p>The fact that the project is a design-build under a P3 delivery method is inconsequential to the identification and evaluation of environmental impacts within the LOD, including off-site mitigation. The limits of build improvements associated with the Preferred Alternative have significantly reduced the LOD compared to the DEIS Build Alternatives. In addition, MDOT SHA has continued to refine the LOD as a result of design modifications, additional traffic modeling, culvert augmentation, and stormwater management. The revisions to the LOD are documented in Chapter 3 of the FEIS.</p> <p>As with most projects, whether P3 or standard design-bid-build delivery, final design will aim to further minimize impacts and stay within the LOD identified in the ROD; however, if there are changes in the LOD, each change will be identified and evaluated under NEPA and other related regulations.</p> <p>As part of the construction efforts, MDOT SHA has committed to using an on-site environmental compliance monitor during construction.</p>
4	General	Project Construction Phases	The proposed Baltimore-Washington Superconducting Magnetic Levitation (SCMAGLEV) project is a large rail project that, if constructed, would cross I-495. EPA suggests the final EIS discuss any potential conflict in design, construction, or operation of the highway should the SCMAGLEV project be constructed.	<p>The Federal Railroad Administration has paused the SCMAGLEV project, per their website https://baltimorewashingtonscmaglevproject.com/.</p> <p>Regardless, the interaction of the MLS and the SCMAGLEV project is located outside the Preferred Alternative limits of build improvements, so that potential conflict has now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional coordination with relevant projects at that time.</p>
5	General	Alternatives	EPA appreciates the acknowledgement of the recent changes that could impact travel demand as a result of COVID-19 and understands there is uncertainty surrounding post-COVID-19 travel demands. EPA recommends that MDOT SHA continue to update and review traffic models, to the extent feasible, to ensure the travel demand for the selected alternative still exists prior to initiating construction.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
6	General	Alternatives	Should traffic demand models change, please consider other alternatives with fewer environmental impacts that still meet the project's Purpose and Need. EPA also recommends the final EIS outline some threshold, process, or criteria that would reopen the discussion with agencies should travel demands change and result in modifications to the project alternatives.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
7	General	Aquatic Resources - Wetlands and Waters of the United States	All action alternatives include substantial permanent, indirect, and cumulative impacts to aquatic resources. EPA recommends that the FHWA and MDOT SHA continue to coordinate with EPA, the United States Army Corps of Engineers (USACE), Maryland Department of the Environment (MDE), and other cooperating agencies to verify impacts to water resources, ensure avoidance and minimization to the maximum extent practical, and determine appropriate aquatic mitigation and compensatory mitigation.	<p>The Preferred Alternative - Alternative 9-Phase 1 South - includes build improvements limited to only a portion of the study limits; thereby avoiding and significantly reducing impacts to natural resources including aquatic resources.</p> <p>MDOT SHA and FHWA will continue to work with EPA and all cooperating agencies to verify impacts to wetlands and waterways and coordinate appropriate avoidance and minimization and mitigation for unavoidable impacts.</p>

No.	Page	DEIS Section	Comment	Response
8	General	Aquatic Resources - Wetlands and Waters of the United States	Due to the large area of potential resource impacts, EPA appreciates the commitment to using an on-site environmental compliance monitor during construction.	MDOT SHA has committed to using an on-site environmental compliance monitor during construction.
9	General	Aquatic Resources - Wetlands and Waters of the United States	In response to the public notice issued by the USACE on July 10, 2020, specific comments regarding the Clean Water Act Section 404 permit application were provided to the USACE by the EPA Region 3 Water Division on October 29, 2020. Comments below reflect those submitted by EPA Region 3 Water Division.	MDOT SHA's Water Resources Team coordinated bi-weekly meetings with the USACE and MDE. The Section 404(b)(1) analysis is presented in the FEIS.
10	General	Aquatic Resources - Wetlands and Waters of the United States - Section 404 Permitting	The CWA 404(b)(1) Guidelines presume that alternatives are available which avoid and minimize impacts to the aquatic ecosystem and restrict discharges when there is a practicable alternative that would have less adverse impact on the aquatic ecosystem. Only the LEDPA should be permitted. Evaluation of the alternatives and environmental impacts associated with each should help identify the LEDPA. If the LEDPA is not the Preferred Alternative, EPA recommends the final EIS identify why the less damaging alternatives are not practicable. An evaluation of a full range of available or practicable alternatives was not developed at a detailed scale, as a Preferred Alternative was not selected. EPA recommends the final EIS fully evaluate the Preferred Alternative, identify upland alternatives, and include any new details regarding onsite designs that will avoid and minimize impacts to aquatic resources to the maximum extent practicable. In addition, EPA recommends that additional information be included in the final EIS regarding how agencies will be coordinated with and potentially included in the review of design plans as they become available. Interagency reviews can help ensure that work and/or best management practices are incorporated to avoid and minimize impacts.	The LEDPA is a USACE determination that will be made by USACE when approving or denying a permit for the project. The DEIS evaluates impacts to aquatic ecosystems for each of the alternatives retained for detailed study, and the SDEIS evaluates the impacts from the Preferred Alternative. A comparison of the Preferred Alternative's impacts on aquatic resources with all of the alternatives evaluated in the DEIS reveals that the Preferred Alternative has far fewer aquatic resource impacts and will appropriately be presented to the USACE as the LEDPA. Over and above the additional efforts to avoid and minimize impacts to aquatic resources set forth in the SDEIS and the FEIS, MDOT SHA has committed to continued interagency coordination and attempts for further avoid and minimize as the project moves into final design.
11	General	Aquatic Resources - Wetlands and Waters of the United States - Stormwater/Flooding	EPA discourages the use of existing wetlands, streams, and other existing aquatic resources to treat and manage stormwater as it may result in degradation of those resources. Proposed alternatives may impact between 127 and 128 acres of 100-year floodplain. EPA recommends that a detailed analysis of the Preferred Alternative explore all possibilities for upland alternatives for stormwater management facilities and/or other stormwater management options. Some options to consider include underground detention, multiple bioretention facilities, infiltration berms or beds, porous pavement or other innovative stormwater design options.	The FEIS, Chapter 3, Section 3.1.6, includes a summary of the preliminary on-site SWM stormwater treatment, which includes multiple innovative BMPs such as underground detention, stormwater ponds, roadside swales, and bioswales. The FEIS also includes a full report on the off-site compensatory SWM needs in Appendix D.
12	General	Aquatic Resources - Wetlands and Waters of the United States - Stormwater/Flooding	Avoidance and minimization of flood risk is proposed to be mitigated by accommodating flood volumes and including stormwater management solutions without causing substantial impacts. EPA recommends that additional details be provided regarding floodplain avoidance, minimization, and mitigation. In addition, EPA suggests the creation of flood storage compensation areas to reduce flood risks and to offset fill placed within the floodplain.	The FEIS, Chapter 5, Section 5.15, includes a summary of the preliminary floodplain impacts, avoidance measures, and mitigation. The FEIS also includes further detail in Appendix M, the Final Natural Resources Technical Report.

No.	Page	DEIS Section	Comment	Response
13	General	Aquatic Resources - Wetlands and Waters of the United States - Culverts	The EIS indicates that impacts to stream resources include the placement of culverts. The type(s) of culverts and designs were not included in documentation provided. EPA recommends this information be included in the analysis of the Preferred Alternative along with a summary explaining how the culvert designs are appropriate for the stream crossing to ensure that impacts are avoided and minimized to the maximum extent practicable. Other alternatives may include, but are not limited to, using bottomless box culverts or bridging the streams. For example, the impacts associated with the crossing of Paint Branch appear to be minimized by constructing bridges at each crossing rather than installing culverts. EPA recommends similar construction methods be considered for resources that provide substantial function and value as demonstrated by a functional assessment and/or based on state water use classification. If bridging these resources is found to be impracticable, please include the rationale for the decision(s).	In most cases along the alignment, culverts are being extended or augmented, which does not allow for alternative culvert designs such as bridging. Where new crossings are proposed, the type of crossing was carefully considered and coordinated with the regulatory agencies. MDOT SHA has committed in FEIS Chapter 5, Section 5.18.4 to maintaining existing or improving aquatic life passage in the primary (not overflow) culverts that are being replaced or extended and continuing to coordinate with MDNR and USFWS regarding aquatic life passage.
14	General	Aquatic Resources - Wetlands and Waters of the United States - Culverts	The large number of culverts proposed as part of the alternatives (>260) has the potential to negatively impact stream quality both individually and cumulatively. EPA recommends additional information be provided on the Preferred Alternative that identifies the potential secondary impacts, evaluates alternatives to minimize those impacts, and considers whether additional mitigation may be necessary to offset secondary effects. For example, secondary effects may include assessing changes to existing hydrology at each crossing, particularly if the proposed activities will result in isolated or severed jurisdiction. Should it be determined that the project will isolate or sever jurisdiction to the remaining waters on site, EPA recommends additional efforts to minimize these effects and/or compensatory mitigation be considered.	MDOT SHA, USACE, MDE, and EPA coordinated extensively in the Fall of 2020 on the analysis of cross culverts to ensure the limits of disturbance adequately captured direct impacts and area needed for stabilized outfalls. Almost all of the culverts included in the Preferred Alternative are existing culverts that could be extended or augmented, which significantly minimizes secondary effects such as isolation and severing of habitat. Compensatory mitigation is being provided for direct impacts to all open channels within the Preferred Alternative LOD. Detailed hydraulics and hydrology studies will be conducted during final design for all waterways where culverts, bridges, or stormwater outfalls are proposed to be altered. These studies will inform final design and will result in alterations that do not impact hydrology or increase flood risk.
15	General	Aquatic Resources - Wetlands and Waters of the United States - Culverts	Areas of culvert augmentation should evaluate whether the combined effects of culvert and stream activities may result in significant degradation of aquatic resources, including downstream receiving waters or by retaining waters upstream of crossings. EPA recommends examining potential water quality degradation, impacts to hydrology, habitat loss, loss of biodiversity, and downstream or upstream impacts from the loss of nutrient cycling and organic matter input and processing. In addition, EPA recommends that a rationale be included to support the conclusions of the assessment and be clearly documented and articulated to help ensure the project does not result in significant degradation of the aquatic ecosystem.	MDOT SHA has conducted an initial assessment of the potential effect of culvert augmentation at each potentially augmented culvert and in many locations, has expanded the LOD of the Preferred Alternative to allow for on-site stream restoration to reduce these potential effects. The FEIS documents that each culvert augmentation will be designed to meet SHA and MDE water quality, water quantity, floodplain, hydrology requirements, which ensures minimal secondary effect in downstream receiving waters. All culvert augmentation will require full hydraulics and hydrology analysis and approval under multiple different sets of state regulations focused on ensuring significant degradation of the aquatic ecosystem does not result from culvert augmentation.

No.	Page	DEIS Section	Comment	Response
16	General	Aquatic Resources - Wetlands and Waters of the United States - Aquatic Organism Passage	Most culverts in the project area pose a barrier for aquatic organism passage. EPA recommends using the results of a stream assessment to inform design elements that can be incorporated into the project's crossings to increase aquatic organism passage. EPA also recommends utilizing the USDA Forest Service's Stream Simulation Design Approach for Providing Aquatic Organism Passage (https://www.fs.fed.us/biology/nsaec/fishxing/) to minimize impacts of the proposal.	In lieu of a stream assessment, MDOT SHA used DNR's Chesapeake Bay Fish Passage Tool to identify priority fish passage crossings within the project area. MDOT SHA identified four priority crossing areas: Old Farm Creek, Cabin John Creek, Watts Branch, and the Potomac River. The USDA Forest Service Stream Simulation Design Approach is not applicable for the four existing priority fish passage crossings. The approach cannot be used at the Potomac River or Cabin John Creek, because existing infrastructure constraints do not permit lengthening of the existing bridge structures. The approach cannot be used at Old Farm Creek and Watts Branch, because the existing culvert(s) will remain in place. MDOT SHA commits to maintaining or improving aquatic life passage at each of these crossings using traditional design approaches and through continued coordination with EPA, MDE, USACE, USFWS, and MDNR.
17	General	Aquatic Resources - Wetlands and Waters of the United States - Resource Characterization/Assessment	EPA appreciates the documentation of wetland functions and values in Appendix J of the Natural Resources Technical Report and the information provided in the baseline assessments using the Highway Methodology to characterize the wetlands. However, additional details could be beneficial for the characterization/assessment of the onsite stream resources proposed to be impacted. This baseline information is important in not only assessing the impacted resources but also in identifying avoidance and minimization opportunities, assessing secondary and cumulative impacts to streams and wetlands, and evaluating appropriate mitigation for unavoidable impacts. EPA recommends additional details of baseline information be provided to aid in determining the functions and condition of the impacted wetland resources by the Preferred Alternative. This may also be applied during the design build process to further target and avoidance and minimize of impacts. Some examples include, but are not limited to, hydrogeomorphic (HGM) classification, source(s) of hydrology, vegetative species diversity, ecological community groups(s), invasive cover, and disturbance history. Additionally, EPA recommends stream functional assessments be conducted and include biological, physical, and chemical information, such as Rapid Bioassessment Protocol, Maryland Biological Stream Survey, and basic water quality data (dissolved oxygen, conductivity, etc.).	With implementation of the Maryland Stream Mitigation Framework (MSMF), MDOT SHA completed stream functional assessments for each stream resource impacted by the project. MDOT SHA used the EPA Rapid Bioassessment Protocol for stream reaches less than 300 linear feet and the USACE Reach Level Stream Function-Based Rapid Assessment for stream reaches greater than 300 linear feet. These included a basic assessment of biological, physiochemical, hydrology, hydraulics, and geomorphology parameters. Results of these functional assessments are included in the FEIS Appendix O, Final Compensatory Wetlands and Waterways Mitigation Plan. In addition, use of the MSMF ensures function-based impacts and mitigation are identified. The USACE Highway Methodology used on this project is a broadly accepted wetland functional assessment methodology that enabled MDOT SHA to identify impacted functions and values and appropriate mitigation.

No.	Page	DEIS Section	Comment	Response
18	General	Aquatic Resources - Wetlands and Waters of the United States - Compensation for Unavoidable Impacts	Once it is determined all appropriate and practicable steps to avoid and minimize adverse impacts have been addressed, compensatory mitigation is then considered. The compensatory mitigation plan (CMP) should clearly detail how the mitigation proposal will offset the loss of the functions and values of the existing aquatic resources. <i>It is unclear if the current compensatory mitigation plan will sufficiently offset the loss of functions of the proposed impacted aquatic resources.</i> EPA recommends revising the CMP so that it clearly demonstrates that the compensatory mitigation undertaken will offset the loss of aquatic functions in accordance with the Mitigation Rule. EPA recommends both the narrative and drawings specifically detail the site construction. EPA suggests the Final CMP include the identified mitigation bank(s) to be used in Virginia or Maryland should any new banks become available prior to construction. EPA also recommends any Palustrine Forest (PFO) wetland conversion be considered a permanent impact and mitigated for appropriately either through purchasing credits from a mitigation bank with PFO wetland type credit availability or by including PFO wetlands into a permittee responsible mitigation, compensatory mitigation plan.	The Compensatory Mitigation Plan (CMP) has been revised for the FEIS to clearly detail how the mitigation proposal will offset the loss of the functions and values of the existing aquatic resources. The CMP reflects the Maryland Stream Mitigation Framework results of functional loss and documents how this functional loss will be mitigated specifically by the mitigation sites selected. Specific mitigation banks in VA have been identified for the VA mitigation requirement. Additional design details are included in the plan for each site. MDE considers PFO conversion a permanent impact and compensation for these conversion impacts is included in the final CMP.
19	4-74	Hazardous Materials	EPA understands that site reconnaissance may have been limited by perimeter fences, gates, vegetation, and/or other security measures as described on page 4-74. EPA recommends that the final EIS discuss the ways in which property investigations may be pursued if needed for areas that are not readily visible from public rights-of-way and which are not adequately documented. EPA notes that the DEIS references the potential obtainment of site access to characterize contaminant distributions on page 4-74.	In support of the phased delivery method and understanding the risks to developers, additional records research, interviews with MDE and EPA, and property site visits have occurred in the Phase 1 South area. This effort was documented in the SDEIS Chapter 4, Appendix I and again in FEIS Chapter 5. It is recommended that the Developer conduct investigations of the high risk during the pre-development phase.
20	4-73	Hazardous Materials	EPA recognizes that the constraints of available database resources and/or public access may have limited preliminary investigations of certain sites that presented concerns. EPA also recognizes the statement on DEIS page 4-73 that "[i]densified high priority sites of concern may require additional investigation to determine the extent and location of existing contaminants and whether or not those contaminants would impact construction activities." Within the final EIS, EPA recommends disclosure of all sites that may require such further investigation. To address any new contaminated sites that are discovered as construction occurs, we recommend preparing a plan that will document the process to discover, handle, or remediate any contaminated areas that were not previously identified as part of the initial investigation process.	The updated Limited Phase I South ESA report identifies the high priority sites of concern, and was discussed in Chapter 4 of the SDEIS and in SDEIS Appendix I and repeated in the FEIS. Also, as part of the Technical Provisions for the Developer, the Hazardous Materials Management Plan (HMMP) will include procedures for identifying (including training on how to identify), investigating and mitigating any previously unknown contamination encountered during construction. Implementation of this plan is overseen by a Hazardous Materials Manager.
21	4-74	Hazardous Materials	On page 4-74, the DEIS outlines that "[p]rior to acquisition of right-of-way and construction, Preliminary Site Investigations (PSIs) would be conducted to further investigate properties within and in the vicinity of the LODs that have a high potential for mitigation contaminated materials exposed during construction activities." EPA recommends clarification of the characterization of "high potential" in this process and correction of typographic error.	The definition of high potential has been clarified in the FEIS, Chapter 5, Section 10.

No.	Page	DEIS Section	Comment	Response
22	General	Environmental Justice	EPA recognizes that the DEIS identifies beneficial and adverse effects to low-income and/minority populations in the context of Environmental Justice (EJ). EPA suggests, as a screening resource, that the EIS may find value in using EJSCREEN, which is EPA's web-based Geographic Information System tool for EJ screening and mapping. In a preliminary review, the tool demonstrates that the MLS alternative peripheries may now face various disproportionate environmental challenges in the context of EJ, including concerns with air toxics and hazardous waste (involving treatment storage disposal facilities and large quantity generators).	The results of the EPA and Maryland EJSCREEN have been incorporated into the existing conditions and demographic data in the SDEIS and FEIS. Refer to Chapter 5, Section 5.21 for a summary of this data and Appendix F for additional details.
23	General	Environmental Justice	The DEIS also correctly indicates there are populations with limited English proficiency (LEP) in nearly every block group within the study area. Furthermore, there are significant populations in linguistic isolation. For example, there are 51 linguistically isolated households in block group 240317012053 (north of Marymount, MD). Those households all speak "Other Indo-European Languages". Similarly, there are 144 linguistically isolated households in block group 240317016021 (near Oakview, MD), of which 88% speak Spanish and 8% speak Asian-Pacific Island languages. EPA recommends as the project moves through the design build phase, that the outreach process thoroughly document the efforts made to identify the primary language spoken at all households within the study area or construction area, that all appropriate communication materials have been translated, and that translators be present at future community outreach events. EPA recommends there be a clear and concise strategy for conducting outreach across the variety of communities that exist in the study area. Due to this variety of communities and populations, it is imperative that a variety of approaches be used to assure that the at-risk populations, as well as all other populations in the community-at-large, are meaningfully engaged in the process. Disclosure and description of this approach can be presented in the final EIS.	MDOT SHA is requiring that the Developer implement a plan for future outreach to EJ Communities and to work collaboratively with MDOT SHA to implement that plan; MDOT SHA will share LEP data and mapping with the developer to use and build upon for their outreach strategies.
24	4-142	Table 4-38	In Table 4-38 on page 4-142, regarding Alternative 9M, it appears that 313.2 acres would be adversely affected and would involve 29 relocations. This affected acreage total appears to be almost 70% higher than the next most affected alternative, Alternative 10, which is characterized with 185.0 affected acres. Likewise, the 29 relocations seem to reflect more than 300% of the 9 total relocations each for Alternatives 8, 9, 10, 13B, and 13C. EPA suggests that the final EIS further explain these relatively elevated values for adverse effects in Alternative 9M, particularly if it becomes the Preferred Alternative.	<p>The 313.2 acres and the 29 relocations in this table were incorrect. The impacts from Alternative 9M would be less than they are for Alternatives 8 and 9 as shown in the table, because Alternative 9M only includes one managed lane between I-270 and I-95.</p> <p>As described in the Supplemental DEIS, the Preferred Alternative completely avoids all residential relocations. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>

No.	Page	DEIS Section	Comment	Response
25	General	Environmental Justice	EPA notes that the next steps for the EJ analysis, to be documented in the final EIS, include consideration of mitigation and enhancement measures if unavoidable adverse effects are expected to occur under the Preferred Alternative. An additional and potentially valuable step for any affected communities may be to develop or continue a communication strategy to convey findings. It may be beneficial to engage communities to convey the significance of changes in land use and construction related effects. EPA's Office of Communities, Tribes and Environmental Assessment can provide assistance concerning EJ-related resources, review methods, and/or community engagement should FHWA and MDOT SHA or the selected contractor require additional resources.	<p>The PA avoids impacts to the majority of EJ communities identified in the DEIS. The strategies developed under Executive Order 12898, USDOT Order 5610.2(a), FHWA Order 6640.23A, and FHWA memorandum Guidance on Environmental Justice and NEPA (2011) set forth the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal transportation projects on EJ communities. Steps #1-4 were completed in the DEIS, and the FEIS finalizes steps #5-8:</p> <p>5) The consideration of mitigation and enhancement measures if unavoidable adverse effects are expected to occur under the Preferred Alternative.</p> <p>6) A comparison of adverse effects from the Preferred Alternative within EJ populations to adverse effects within a non-EJ population reference community;</p> <p>7) A determination of whether disproportionately high and adverse effects would occur under the Preferred Alternative to EJ populations; and</p> <p>8) A final conclusion of whether disproportionately high and adverse effects would occur, based on unmitigated adverse effects and whether public feedback has been addressed.</p> <p>MDOT SHA developed an Environmental Justice Working Group and appreciate EPA playing an active role in this group. Additionally, MDOT SHA conducted an extensive outreach effort in the fall of 2021 to proactively engage with underserved communities to identify concerns and incorporate measures to address these concerns. These efforts, including the final Environmental Justice analysis results, are summarized in FEIS Chapter 5, Section 5.21 and Appendix F. The Developer has committed to continuing outreach to EJ communities when final design and construction commence, assuming a build alternative is selected.</p>
26	General	Air Quality	Since the project is in the Washington, DC-MD-VA 2015 ozone National Ambient Air Quality Standards nonattainment area, a transportation conformity determination is required. When the Preferred Alternative is selected, please address the relevant requirements of 40 CFR 93.109. It is recommended that the approval date and link for the Transportation Improvement Plan that includes the selected alternative be included when available.	MDOT has updated the CLRP and TIP with the Preferred Alternative and it has been included in the regional conformity analysis for ozone. The FEIS addresses the requirements of 40 CFR 93. The updated information can be found in Chapter 5 of the FEIS.

No.	Page	DEIS Section	Comment	Response
27	General	Wildlife Habitat	Work to replace the American Legion Bridge is a significant part of the MLS. This area poses a number of challenges and will likely result in impacts to a variety of resources. Plummers Island is an approximately 12-acre area on the Northeast side of the bridge. The biota and this island may be considered one of the most scientifically studied islands in North America. The Washington Biologist Field Club and the National Park Service entered into an agreement to preserve this island. EPA recommends that the final EIS include additional details on how the project will avoid or minimize impacts to this resource. In addition, an auxiliary channel wraps around the island and is proposed to be directly impacted by causeway construction. EPA recommends additional information be provided to demonstrate that the causeway and temporary pipe will be sized sufficiently accommodate flows around the island into the Potomac at its current discharge and frequency. In addition, EPA recommends that MDOT SHA and FHWA coordinate with the Washington Biologist Field Club to ensure no current studies will be adversely impacted by the project.	A Strike Team of national design and construction experts was assembled to look at possible bridge construction options at the ALB to avoid and minimize impacts to Plummers Island and NPS land to the maximum extent practicable. The Preferred Alternative reflects the least impactful alignment option to NPS land and impacts to Plummers Island have been significantly reduced under the Preferred Alternative. Impact minimization measures include elimination of the causeway over the channel around Plummers Island and construction access will be via trestle bridge over the channel to minimize impacts to the channel. MDOT SHA has coordinated with NPS and the Washington Biologists Field Club to address concerns and provide feedback on comments. Biota impact mitigation measures resulting from this coordination include the development of a comprehensive ecological restoration plan for the gorge area that includes pre-construction, during construction and post-construction measures to minimize impacts to wildlife and restore the area as quickly as possible. The FEIS includes a summary of the Strike Team process and a Preferred LOD that reflects a concerted effort to avoid and minimize impacts to Plummers Island, refer to FEIS Chapter 2, Section 2.3.4C.
28	General	Wildlife Habitat	The proposed highway development is within Sensitive Species Project Review Areas (SSPRA), which identify areas that primarily contain habitat for rare, threatened, and endangered species and rare natural community types. In addition, the proposed project it is in Tier 1, Tier 3, and Tier 5 Biodiversity Conservation Networks (BioNet). As such, EPA recommends the applicant work with the MD Department of Natural Resources to ensure the proposed development will conserve terrestrial and freshwater biodiversity and promote shared responsibilities for land conservation and management practices.	<p>MDOT SHA has coordinated closely with Maryland Department of Natural Resources (MDNR) and the United States Fish and Wildlife Service (USFWS) regarding rare, threatened, and endangered species. Acoustic and bridge surveys were conducted for the Northern Long-Eared Bat and Indiana Bat within the corridor study boundary. There were 3 positive acoustic detections of the Northern Long-Eared bat within the corridor study boundary and MDOT SHA has agreed to a voluntary time of year restrictions on forest clearing within the 3-mile buffer of the 3 positive detections from May 1 – July 31 of any year.</p> <p>There are Virginia state-listed species in the Potomac River Gorge area and the area is a Tier 1 Biodiversity area. MDOT SHA has coordinated with Virginia Department of Environmental Quality (VDEQ), Virginia Department of Wildlife Resources (DWR), and Virginia Department of Conservation and Recreation (VDCR) to identify RTE species in Virginia that may be affected by the project. MDOT SHA conducted a wood turtle survey and did not identify any wood turtles within the study area. MDOT SHA agreed to a time of year restriction for tree clearing within the Virginia portion of the Preferred Alternative LOD from April 1 – October 31 in any year to avoid impact to bat roost trees during roosting season to protect the tri-colored bat.</p> <p>MDOT SHA coordinated with VDCR, National Park Service (NPS) and MDNR to determine a list of threatened and endangered plant species to include in a RTE plant survey within the Potomac Gorge. This four-season RTE plant survey was completed in 2020. For several RTE species, large numbers of plants were found. Due to the large number of these plants present, avoidance is not possible. MDOT SHA continues to work with the NPS and DNR to develop a comprehensive ecosystem-based mitigation plan for affected NPS property.</p>

No.	Page	DEIS Section	Comment	Response
29	4-101	4.16.3 & 4.17.4	Section 4.16.3 Page 4-101 states “Increased edge to interior ratio in forests also results in increased introduction of invasive plant species, resulting in lower plant biodiversity and fewer native plant species...” EPA suggests that additional information be included in section 4.17.4 that discusses how invasive species will be controlled along disturbed forest corridors and other areas including wetlands, streams, mitigation sites.	MDOT SHA has an integrated plan for invasive species treatment along its highway corridors. Additional information has been added to the FEIS in Section 5.16.4 to discuss non-native invasive species control requirements. Controlling invasive species is very difficult within a metropolitan area that includes a high level of ground disturbance and transport pathways for the introduction and spread of invasive species. The widening of the roadway for the MLS will, for the most part, create new edge environments, but not necessarily increase their ratio. Many of the areas that would be the new roadway edge are already highly impacted by invasive species, as adjacent areas to a roadway corridor include a high percentage of otherwise disturbed land.
30	General	Wildlife Habitat	The project may impact between 414 and 417 acres of Unique and Sensitive Areas. EPA suggests that during the selection of the Preferred Alternative and during the design build process that further avoidance and minimize measures be considered to reduce impacts to valuable habitat areas, especially is areas where multiple resources are present such as floodplains and wetlands or other parks and natural areas that may serve as a corridor for wildlife.	Under the Preferred Alternative, impacts to Unique and Sensitive Areas has been reduced by approximately 240 acres compared to the Build Alternatives in the DEIS. MDOT SHA and its partners have focused on avoidance and minimization measures throughout the MLS NEPA process to reduce impacts to valuable habitat areas, especially where multiple resources are present. Please see the Avoidance and Minimization Report for documentation of this process. The avoidance and minimization process will continue through final design. Refer to FEIS Appendix N.

ENVIRONMENTAL PROTECTION AGENCY

From: Nevshahirlian, Stepan <Nevshahirlian.Stepan@epa.gov>
Sent: Monday, November 9, 2020 2:39 PM
To: Parikh, Jitesh (FHWA) <Jitesh.Parikh@dot.gov>; Lisa Choplin <LChoplin@mdot.maryland.gov>
Cc: Caryn Brookman (Consultant) <CBrookman.consultant@mdot.maryland.gov>; Witman, Timothy <witman.timothy@epa.gov>; Rudnick, Barbara <Rudnick.Barbara@epa.gov>
Subject: EPA Comments on I495 - I270 DEIS

Dear Mr. Parikh and Ms. Choplin,

My name is Stepan Nevshahirlian. I recently started a new position as the Environmental Assessment Branch Chief in EPA Region 3's Office of Communities, Tribes, and Environmental Assessment. Attached please find our team's comments on the Draft Environmental Impact Statement for the I-495 & I-270 Managed Lanes Study and accompanying transmittal letter. I look forward to meeting you sometime soon and we look forward to continued cooperation in the development of the final Environmental Impact Statement for the project.

Sincerely,
Stepan

Stepan Nevshahirlian
Environmental Assessment Branch Chief
Office of Communities, Tribes and Environmental Assessment
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November 9, 2020

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Subject: I-495 & I-270 Managed Lanes Study, Montgomery and Prince George's Counties, Maryland and Fairfax County Virginia. CEQ# 20200139

Dear Mr. Parikh and Ms. Choplin:

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, the U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the I-495 & I-270 Managed Lanes Study (MLS), Montgomery and Prince George's Counties, Maryland and Fairfax County, Virginia (the Project, Study). The DEIS has been prepared by the Federal Highway Administration (FHWA) and the Maryland Department of Transportation State Highway Administration (MDOT SHA). The Project considers alternatives that address roadway congestion within the study area of 48 miles, from a western limit on I-495 south of the George Washington Memorial Parkway in Fairfax County, Virginia, including improvements to the American Legion Bridge, to west of MD 5, and along I-270 from I-495 to north of I-370, including east and west I-270 spurs. The MLS purpose is to develop a travel demand management solution that addresses congestion, improves trip reliability on I-495 and I-270 within the Study limits, and enhances existing and planned multimodal mobility and connectivity.

Seven alternatives are identified and compared in the DEIS including the No Build Alternative. The build alternatives have similar potential impacts to resources, because the project would expand and/or reconfigure existing highways within a constrained built environment and because engineering requirements appear to be comparable between the alternatives.

As the project is a design-build in a large study area, it is recognized that the DEIS does not include design details nor refined analysis of environmental impacts. A Preferred Alternative is not identified in the DEIS. We anticipate that additional avoidance and minimization of adverse impacts can be achieved in more advanced design phases. We suggest the final EIS refine the discussion of resource characterization and impacts; and that the Preferred Alternative show further avoidance of resources, including floodplains, wetlands and stream crossings, and evaluate and minimize effects to streams and water quality from culverts. EPA suggests that the study document how public and interagency engagement will continue throughout the planning, design, and construction process. EPA looks forward to working together as phases of the project are designed and seeing the implementation of avoidance and minimization measures as well as the development of compensatory mitigation to offset unavoidable impacts. Please consider the enclosed technical comments, based on the DEIS information. EPA would appreciate the opportunity to remain involved in the project as design, review, planning, and construction progresses.

EPA looks forward to continued cooperation in the development of the final Environmental Impact Statement. If you have any questions regarding our comments, please feel free to contact Timothy Witman, at (215) 814-2775 or by email at Witman.Timothy@epa.gov.

Sincerely,

Stepan Nevshahirlian
Environmental Assessment Branch Chief
Office of Communities, Tribes and
Environmental Assessment

Enclosure

Enclosure
Technical Comments
I-495 & I-270 MLS DEIS

Project Construction Phases

The Project is proposed as a Public-Private Partnership (P3). Due to the magnitude of the Study, the P3 project may be constructed in phases. As described in the Executive Summary ES-20 and ES-21, Phase I may include the construction of an additional project along I-270 to I-70. This section of road is being evaluated under an independent NEPA analysis. It is not clear in the DEIS why the proposed Phase I construction approach should include the additional work on I-270 at I-70 in Frederick, MD, prior to constructing the I-495 (Beltway) improvements identified in the I-495/I-270 MLS DEIS. The prioritization of Phase I work from I-495 South of the George Washington Memorial Parkway to the I-270 at I-70 appears to modify the logical termini evaluated in the I-495/I-270 MLS DEIS and deviates from the purpose and need of I-495/I-270 MLS improvements. EPA recommends that the MLS final EIS include the rationale for separating the I-270 to I-70 and the I-495/I-270 MLS NEPA analysis. In addition, EPA suggests clarifying whether combining the two projects into one EIS could have altered the traffic modeling and screening of alternatives.

The limit of disturbance (LOD) is defined as the proposed boundary within which all construction, construction access, staging, materials, storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, and related activities would occur. Since the Project is a design build, includes phased construction, may be awarded to multiple contractors, and involves offsite mitigation, EPA recommends that additional information be included regarding how impacts and environmental effects will be identified, documented, and/or mitigated should the LOD expand to other sites beyond the LOD identified in the DEIS.

The proposed Baltimore-Washington Superconducting Magnetic Levitation (SCMAGLEV) project is a large rail project that, if constructed, would cross I-495. EPA suggests the final EIS discuss any potential conflict in design, construction, or operation of the highway should the SCMAGLEV project be constructed.

Alternatives

EPA appreciates the acknowledgement of the recent changes that could impact travel demand as a result of COVID-19 and understands there is uncertainty surrounding post-COVID-19 travel demands. EPA recommends that MDOT SHA continue to update and review traffic models, to the extent feasible, to ensure the travel demand for the selected alternative still exists prior to initiating construction.

Based on the information provided in the DEIS, many of the alternatives result in only slight variations in environmental effects. EPA understands cost and traffic are being considered in the alternative analysis and the Purpose and Need. However, it is required for the Clean Water Act Section 404 (CWA) permit that the selected alternative also comply with the Section 404(b)(1) Guidelines 40 CFR 230 and that the Least Environmentally Damaging Practical Alternative (LEDPA) be selected. Should traffic demand models change, please consider other alternatives with fewer environmental impacts that still meet the project's Purpose and Need. EPA also recommends the final EIS outline

some threshold, process, or criteria that would reopen the discussion with agencies should travel demands change and result in modifications to the project alternatives.

Aquatic Resources - Wetlands and Waters of the United States

All action alternatives include substantial permanent, indirect, and cumulative impacts to aquatic resources. EPA recommends that the FHWA and MDOT SHA continue to coordinate with EPA, the United States Army Corps of Engineers (USACE), Maryland Department of the Environment (MDE), and other cooperating agencies to verify impacts to water resources, ensure avoidance and minimization to the maximum extent practical, and determine appropriate aquatic mitigation and compensatory mitigation. Seven alternatives are identified and compared in the DEIS including the No Build Alternative. The build alternatives have similar potential impacts to resources. Of the seven alternatives carried forward, the impacts to federally jurisdictional waters are estimated to vary from 16.1 to 16.5 acres of wetlands, and 155,229 to 156,948 linear feet of Waters of the United States. Alternative 5 has the least impacts (153,702 linear feet of streams and 15.4 acres of wetlands). The DEIS notes that MDOT SHA and FHWA determined that Alternative 5 does not meet purpose and need and was included for comparison purposes only. There are four business relocations for all alternatives, 25 to 34 residential relocations, and between 1,392 to 1,518 directly affected properties. Due to the large area of potential resource impacts, EPA appreciates the commitment to using an on-site environmental compliance monitor during construction.

In response to the public notice issued by the USACE on July 10, 2020, specific comments regarding the Clean Water Act Section 404 permit application were provided to the USACE by the EPA Region 3 Water Division on October 29, 2020. Comments below reflect those submitted by EPA Region 3 Water Division.

Section 404 Permitting

The CWA 404(b)(1) Guidelines presume that alternatives are available which avoid and minimize impacts to the aquatic ecosystem and restrict discharges when there is a practicable alternative that would have less adverse impact on the aquatic ecosystem. Only the LEDPA should be permitted. Evaluation of the alternatives and environmental impacts associated with each should help identify the LEDPA. If the LEDPA is not the Preferred Alternative, EPA recommends the final EIS identify why the less damaging alternatives are not practicable. An evaluation of a full range of available or practicable alternatives was not developed at a detailed scale, as a Preferred Alternative was not selected. EPA recommends the final EIS fully evaluate the Preferred Alternative, identify upland alternatives, and include any new details regarding onsite designs that will avoid and minimize impacts to aquatic resources to the maximum extent practicable. In addition, EPA recommends that additional information be included in the final EIS regarding how agencies will be coordinated with and potentially included in the review of design plans as they become available. Interagency reviews can help ensure that work and/or best management practices are incorporated to avoid and minimize impacts.

Stormwater/Flooding

EPA discourages the use of existing wetlands, streams, and other existing aquatic resources to treat and manage stormwater as it may result in degradation of those resources. Proposed alternatives may impact between 127 and 128 acres of 100-year floodplain. EPA recommends that a detailed analysis of the Preferred Alternative explore all possibilities for upland alternatives for stormwater management facilities and/or other stormwater management options. Some options to consider include

underground detention, multiple bioretention facilities, infiltration berms or beds, porous pavement or other innovative stormwater design options.

Avoidance and minimization of flood risk is proposed to be mitigated by accommodating flood volumes and including stormwater management solutions without causing substantial impacts. EPA recommends that additional details be provided regarding floodplain avoidance, minimization, and mitigation. In addition, EPA suggests the creation of flood storage compensation areas to reduce flood risks and to offset fill placed within the floodplain.

Culverts

The EIS indicates that impacts to stream resources include the placement of culverts. The type(s) of culverts and designs were not included in documentation provided. EPA recommends this information be included in the analysis of the Preferred Alternative along with a summary explaining how the culvert designs are appropriate for the stream crossing to ensure that impacts are avoided and minimized to the maximum extent practicable. Other alternatives may include, but are not limited to, using bottomless box culverts or bridging the streams. For example, the impacts associated with the crossing of Paint Branch appear to be minimized by constructing bridges at each crossing rather than installing culverts. EPA recommends similar construction methods be considered for resources that provide substantial function and value as demonstrated by a functional assessment and/or based on state water use classification. If bridging these resources is found to be impracticable, please include the rationale for the decision(s).

The large number of culverts proposed as part of the alternatives (>260) has the potential to negatively impact stream quality both individually and cumulatively. EPA recommends additional information be provided on the Preferred Alternative that identifies the potential secondary impacts, evaluates alternatives to minimize those impacts, and considers whether additional mitigation may be necessary to offset secondary effects. For example, secondary effects may include assessing changes to existing hydrology at each crossing, particularly if the proposed activities will result in isolated or severed jurisdiction. Should it be determined that the project will isolate or sever jurisdiction to the remaining waters on site, EPA recommends additional efforts to minimize these effects and/or compensatory mitigation be considered.

Areas of culvert augmentation should evaluate whether the combined effects of culvert and stream activities may result in significant degradation of aquatic resources, including downstream receiving waters or by retaining waters upstream of crossings. EPA recommends examining potential water quality degradation, impacts to hydrology, habitat loss, loss of biodiversity, and downstream or upstream impacts from the loss of nutrient cycling and organic matter input and processing. In addition, EPA recommends that a rationale be included to support the conclusions of the assessment and be clearly documented and articulated to help ensure the project does not result in significant degradation of the aquatic ecosystem.

Aquatic Organism Passage

Most culverts in the project area pose a barrier for aquatic organism passage. EPA recommends using the results of a stream assessment to inform design elements that can be incorporated into the project's crossings to increase aquatic organism passage. EPA also recommends utilizing the USDA Forest Service's Stream Simulation Design Approach for Providing Aquatic Organism Passage (<https://www.fs.fed.us/biology/nsaec/fishxing/>) to minimize impacts of the proposal.

Resource Characterization/Assessment

EPA appreciates the documentation of wetland functions and values in Appendix J of the Natural Resources Technical Report and the information provided in the baseline assessments using the Highway Methodology to characterize the wetlands. However, additional details could be beneficial for the characterization/assessment of the onsite stream resources proposed to be impacted. This baseline information is important in not only assessing the impacted resources but also in identifying avoidance and minimization opportunities, assessing secondary and cumulative impacts to streams and wetlands, and evaluating appropriate mitigation for unavoidable impacts. EPA recommends additional details of baseline information be provided to aid in determining the functions and condition of the impacted wetland resources by the Preferred Alternative. This may also be applied during the design build process to further target and avoidance and minimize of impacts. Some examples include, but are not limited to, hydrogeomorphic (HGM) classification, source(s) of hydrology, vegetative species diversity, ecological community groups(s), invasive cover, and disturbance history. Additionally, EPA recommends stream functional assessments be conducted and include biological, physical, and chemical information, such as Rapid Bioassessment Protocol, Maryland Biological Stream Survey, and basic water quality data (dissolved oxygen, conductivity, etc.).

Compensation for Unavoidable Impacts

Once it is determined all appropriate and practicable steps to avoid and minimize adverse impacts have been addressed, compensatory mitigation is then considered. The compensatory mitigation plan (CMP) should clearly detail how the mitigation proposal will offset the loss of the functions and values of the existing aquatic resources. It is unclear if the current compensatory mitigation plan will sufficiently offset the loss of functions of the proposed impacted aquatic resources. EPA recommends revising the CMP so that it clearly demonstrates that the compensatory mitigation undertaken will offset the loss of aquatic functions in accordance with the Mitigation Rule. EPA recommends both the narrative and drawings specifically detail the site construction. EPA suggests the Final CMP include the identified mitigation bank(s) to be used in Virginia or Maryland should any new banks become available prior to construction. EPA also recommends any Palustrine Forest (PFO) wetland conversion be considered a permanent impact and mitigated for appropriately either through purchasing credits from a mitigation bank with PFO wetland type credit availability or by including PFO wetlands into a permittee responsible mitigation, compensatory mitigation plan.

Hazardous Materials

EPA understands that site reconnaissance may have been limited by perimeter fences, gates, vegetation, and/or other security measures as described on page 4-74. EPA recommends that the final EIS discuss the ways in which property investigations may be pursued if needed for areas that are not readily visible from public rights-of-way and which are not adequately documented. EPA notes that the DEIS references the potential obtainment of site access to characterize contaminant distributions on page 4-74.

EPA recognizes that the constraints of available database resources and/or public access may have limited preliminary investigations of certain sites that presented concerns. EPA also recognizes the statement on DEIS page 4-73 that "[i]dentified high priority sites of concern may require additional investigation to determine the extent and location of existing contaminants and whether or not those contaminants would impact construction activities." Within the final EIS, EPA recommends disclosure of all sites that may require such further investigation. To address any new contaminated sites that are discovered as construction occurs, we recommend preparing a plan that will document the process to

discover, handle, or remediate any contaminated areas that were not previously identified as part of the initial investigation process.

On page 4-74, the DEIS outlines that "[p]rior to acquisition of right-of-way and construction, Preliminary Site Investigations (PSIs) would be conducted to further investigate properties within and in the vicinity of the LODs that have a high potential for mitigation contaminated materials exposed during construction activities." EPA recommends clarification of the characterization of "high potential" in this process and correction of typographic error.

Environmental Justice

EPA recognizes that the DEIS identifies beneficial and adverse effects to low-income and/ minority populations in the context of Environmental Justice (EJ). EPA suggests, as a screening resource, that the EIS may find value in using EJSCREEN, which is EPA's web-based Geographic Information System tool for EJ screening and mapping. In a preliminary review, the tool demonstrates that the MLS alternative peripheries may now face various disproportionate environmental challenges in the context of EJ, including concerns with air toxics and hazardous waste (involving treatment storage disposal facilities and large quantity generators).

The DEIS also correctly indicates there are populations with limited English proficiency (LEP) in nearly every block group within the study area. Furthermore, there are significant populations in linguistic isolation. For example, there are 51 linguistically isolated households in block group 240317012053 (north of Marymount, MD). Those households all speak "Other Indo-European Languages". Similarly, there are 144 linguistically isolated households in block group 240317016021 (near Oakview, MD), of which 88% speak Spanish and 8% speak Asian-Pacific Island languages. EPA recommends as the project moves through the design build phase, that the outreach process thoroughly document the efforts made to identify the primary language spoken at all households within the study area or construction area, that all appropriate communication materials have been translated, and that translators be present at future community outreach events. EPA recommends there be a clear and concise strategy for conducting outreach across the variety of communities that exist in the study area. Due to this variety of communities and populations, it is imperative that a variety of approaches be used to assure that the at-risk populations, as well as all other populations in the community-at-large, are meaningfully engaged in the process. Disclosure and description of this approach can be presented in the final EIS.

In Table 4-38 on page 4-142, regarding Alternative 9M, it appears that 313.2 acres would be adversely affected and would involve 29 relocations. This affected acreage total appears to be almost 70% higher than the next most affected alternative, Alternative 10, which is characterized with 185.0 affected acres. Likewise, the 29 relocations seem to reflect more than 300% of the 9 total relocations each for Alternatives 8, 9, 10, 13B, and 13C. EPA suggests that the final EIS further explain these relatively elevated values for adverse effects in Alternative 9M, particularly if it becomes the Preferred Alternative.

EPA notes that the next steps for the EJ analysis, to be documented in the final EIS, include consideration of mitigation and enhancement measures if unavoidable adverse effects are expected to occur under the Preferred Alternative. An additional and potentially valuable step for any affected communities may be to develop or continue a communication strategy to convey findings. It may be beneficial to engage communities to convey the significance of changes in land use and construction-

related effects. EPA’s Office of Communities, Tribes and Environmental Assessment can provide assistance concerning EJ-related resources, review methods, and/or community engagement should FHWA and MDOT SHA or the selected contractor require additional resources.

Air Quality

Since the project is in the Washington, DC-MD-VA 2015 ozone National Ambient Air Quality Standards nonattainment area, a transportation conformity determination is required. When the Preferred Alternative is selected, please address the relevant requirements of 40 CFR 93.109. It is recommended that the approval date and link for the Transportation Improvement Plan that includes the selected alternative be included when available.

Wildlife Habitat

Work to replace the American Legion Bridge is a significant part of the MLS. This area poses a number of challenges and will likely result in impacts to a variety of resources. Plummers Island is an approximately 12-acre area on the Northeast side of the bridge. The biota and this island may be considered one of the most scientifically studied islands in North America. The Washington Biologist Field Club and the National Park Service entered into an agreement to preserve this island. EPA recommends that the final EIS include additional details on how the project will avoid or minimize impacts to this resource. In addition, an auxiliary channel wraps around the island and is proposed to be directly impacted by causeway construction. EPA recommends additional information be provided to demonstrate that the causeway and temporary pipe will be sized sufficiently accommodate flows around the island into the Potomac at its current discharge and frequency. In addition, EPA recommends that MDOT SHA and FHWA coordinate with the Washington Biologist Field Club to ensure no current studies will be adversely impacted by the project.

The proposed highway development is within Sensitive Species Project Review Areas (SSPRA), which identify areas that primarily contain habitat for rare, threatened, and endangered species and rare natural community types. In addition, the proposed project it is in Tier 1, Tier 3, and Tier 5 Biodiversity Conservation Networks (BioNet). As such, EPA recommends the applicant work with the MD Department of Natural Resources to ensure the proposed development will conserve terrestrial and freshwater biodiversity and promote shared responsibilities for land conservation and management practices.

Section 4.16.3 Page 4-101 states “Increased edge to interior ratio in forests also results in increased introduction of invasive plant species, resulting in lower plant biodiversity and fewer native plant species...” EPA suggests that additional information be included in section 4.17.4 that discusses how invasive species will be controlled along disturbed forest corridors and other ares including wetlands, streams, mitigation sites.

The project may impact between 414 and 417 acres of Unique and Sensitive Areas. EPA suggests that during the selection of the Preferred Alternative and during the design build process that further avoidance and minimize measures be considered to reduce impacts to valuable habitat areas, especially is areas where multiple resources are present such as floodplains and wetlands or other parks and natural areas that may serve as a corridor for wildlife.

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Maryland Department of the Environment - DEIS Comments

No.	Page	DEIS Section	Comment	Response
1	General	General - Letter	Attached is a summary of public comments received during the joint public hearings. The Program requests point-by-point responses for inclusion in the public record. Significant public comments should also be addressed within the Final Environmental Impact Statement (FEIS). Of particular note, numerous comments were received addressing the long term changes to traffic that could result from changes in work practices including increased working from home and flexible scheduling. Please also specifically address potential cost and environmental impacts associated with utility relocations, particularly WSSC pipelines. Additional public comments may come in through the mail the week following the end of the public notice period and may be forwarded for inclusion.	A response to all substantive comments received on the DEIS have been reviewed, considered and responded to in the FEIS, Chapter 9, if a common theme, or individually in FEIS Appendix T.
2	General	General - Letter	On November 5th, 2020, the Program sent a letter regarding concerns about the timing and current level of information provided in the Application, particularly as it relates to Water Quality Certification requirements (Attachment D). Please review the letter as it relates to the FEIS, and respond accordingly.	1) The project is now seeking a permit for Phase I South only, which includes impacts for augmented culverts and offsite SWM management. 2) The 401 WQC Request will be for Phase I South only. 3) Augmented culvert areas that extend beyond the initial corridor study boundary were delineated with a 2-parameter approach, due to property access limitations. Delineation of these areas will be completed prior to construction. 4) Additionally, affected adjacent property owners have been identified and notified as part of the revised JPA process.
3	General	General	Please note, some comments provided in the Joint Permit Application (JPA) Day 45 Comment Letter dated June 5, 2020, including comments related to the Draft Environmental Impact Statement (DEIS), are still outstanding/relevant and will need to be addressed in the Final Environmental Impact Statement (FEIS) and the JPA (Attachment A).	All specific comments are addressed in the FEIS and revised JPA.
4	General	General	Please ensure that the FEIS is updated as appropriate in sections where information and coordination is listed in the DEIS as pending or ongoing.	The SDEIS included updated information and the FEIS has been updated to reflect the latest analysis and coordination.
5	General	General	Update all relevant sections of the FEIS and attachments to discuss the effect that COVID-19 has on the study including purpose and need of the project. Please include details regarding revised traffic studies, and the affect of more businesses adopting permanent teleworking arrangements.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
6	General	General	Provide more details on constructability throughout the FEIS and relevant attachments.	Refer to Chapter 3, Section 3.1.8 for more details on the construction and short-term effects of the project. Refer to Chapter 5, Section 5.24 for more details on the Consequences of Construction.
7	General	General	Ensure all impact totals and required mitigation totals match throughout the FEIS and attachments.	Consistency of impact numbers throughout the FEIS and supporting documents has been cross-checked.
8	General	General	Please address the effects that will result from needed utility relocation throughout the FEIS and attachments.	The LOD has taken into account relocation of known utilities. Refer to Chapter 9, Section 3.4.M for a response to impacts to utilities and associated costs.
9	General	General	Additional information is requested regarding how the project will be phased, the timing of those phases, and how that relates to the current JPA.	As described in the Supplemental DEIS, the Preferred Alternative now aligns the NEPA approval with the planned project phased delivery and the JPA permitting approach that is focused on Phase 1 South only. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, permits, and collaboration with the public, stakeholders, and agencies.

No.	Page	DEIS Section	Comment	Response
10	General	General	Please add additional information regarding utility relocations throughout the FEIS, particularly related to impacts to resources and costs associated with relocations, including how the relocations are paid for in relation to the rest of the project costs.	The LOD has taken into account relocation of utilities. Refer to Chapter 9, Section 3.4.M for a response to impacts to utilities and associated costs.
11	General	General	Details regarding the Water Quality Certification (WQC) process for this project are ongoing. Please consider updating information regarding the WQC process as it becomes available. Also see attachment D, a letter from MDE regarding the timing and information required for issuance of a WQC for the project.	MDOT SHA coordinated closely with MDE, USACE, and EPA to determine the timeline/schedule for the 401 WQC process. The timing and information required that were identified in Attachment D were included in the discussions and schedule development. The WQC schedule was developed in the 2/22/2021 meeting and was adapted to meet the evolving project schedule since that time.
12	General	General	Discussions regarding the wetland and stream mitigation for the project are ongoing. Please continue to address mitigation comments/concerns through the applicable comments below, and the JPA review process.	Comments and concerns regarding wetland and stream mitigation have been discussed extensively with regulatory agencies, including MDE and USACE, and are addressed in the Final CMP and Phase II Mitigation Plans.
13	General	General	Please note, coordination is ongoing with DNR and USFWS. Additional comments will be provided by DNR and USFWS directly.	Comment noted. Comments were received from DNR and USFWS on the DEIS and responses have been provided in the FEIS.
14	General	Executive Summary	Please include more details in the FEIS regarding traffic studies and how COVID-19 plays a part in traffic patterns as the studies progress. Additionally, does COVID-19 change the need to evaluate the MD 200 Diversion Alternative?	The affect of pandemic on traffic has been carefully considered as well as the MD 200 Alternative. Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
15	ES-5	Executive Summary	Under the definition of Limits of Disturbance (LOD) on Page ES-5, please consider adding language regarding a continued commitment to avoidance and minimization.	The Executive Summary contains a definition of the Limit of Disturbance, so it is not an appropriate place to explain the continued commitment of avoidance and minimization. Text for avoidance and minimization has been added in more detail in FEIS Chapter 3.
16	ES-6	Executive Summary	On ES-6, define Notice of Availability.	All EISs are filed with EPA, and EPA publishes a "Notice of Availability" each week in the Federal Register. The "Notice of Availability" is the start of the 45-day public comment period for Draft EISs. This notice is also the start of the 30-day "wait period" for Final EISs, in which agencies are generally required to wait 30 days before making a decision on a proposed action.
17	ES-17	Executive Summary	On ES-17, please add a note under 'Table ES-2: Summary of Effects Comparison of the Alternatives' that the impacts listed do not include impacts at the proposed mitigation sites.	The impacts of the Preferred Alternative and mitigation sites with more detail have been updated and included in the FEIS.
18	ES-20	Executive Summary	Consider relocating the P3 definition on ES-20 towards the beginning of the document where P3 is first mentioned.	Comment noted.
19	2-18	DEIS Section 2: Alternatives Development	This page states, "In addition to failing to adequately meet the Study's Purpose and Need, Alternative 5 would not be considered a practicable alternative in the context of the US Army Corps of Engineers' permitting requirements." Has the USACE made an official determination that Alternative 5 would not meet their permitting requirements? If so, please provide a reference and add the reference to the Agency Correspondence Appendix. If not, this statement should be removed.	The USACE concurred on the Alternatives Retained for Detailed Study analysis and on the DEIS. There is no need to remove this sentence.
20	2-39	DEIS Section 2: Alternatives Development	Consider listing noise barriers under the 'Elements Included in the Constructability Analysis' Section (2.7.3.b.).	This was added to the constructability discussion and adjustments to the LOD to accommodate the revised noise analysis are included in the FEIS.

No.	Page	DEIS Section	Comment	Response
21	2-40	DEIS Section 2: Alternatives Development	The highlighted box says that the American Legion Bridge will remain in the same location; however, is that still true with new information regarding the importance of Plummerville Island?	The replacement for the American Legion Bridge will be built on the current centerline alignment, but has been minimized to reduce impacts to Plummerville Island to the greatest extent practicable. This alignment was determined by the ALB Strike Team, a group of bridge design experts from across the country, who considered many possibilities and determined this to be the least impactful to NPS property while maintaining constructability. Refer to SDEIS Chapter 2 and FEIS Chapter 3 for more details on the efforts to minimize impacts at the ALB.
22	2-44	DEIS Section 2: Alternatives Development	Section 2.7.5.d. states that dynamic tolling will minimize environmental impacts. Please provide a more detailed explanation regarding how dynamic tolling minimizes environmental impacts, including which environmental impacts are minimized.	Dynamic tolling restrains the number of vehicles on the managed lanes; it encourages the use of carpooling and bus transit compared to non tolled congested lanes and reduces the effect of vehicles sitting idle or in stop start congested traffic.
23	2-47	DEIS Section 2: Alternatives Development	Under Section 2.7.7, would the location of the pedestrian/bicycle bridge change due to the Plummerville Island concerns? The path is currently planned for the south side of the bridge.	The shared use path is proposed for the east/south side of the bridge, on structure, adjacent to Plummerville Island. The shared use path is connecting to a planned Fairfax County trail with a proposed location on the east side of I-495 in Virginia.
24	General	DEIS Section 3: Transportation and Traffic	In Section 3, explain why Active Traffic Management (ATM) is no longer included, as it was originally included in the Administrative DEIS.	Active Traffic Management (ATM) was included as part of Alternative 2 (TSM/TDM), but this alternative was dropped during the screening phase. For additional detail, refer to Chapter 9, Section 3.2.A for a response on Screening of Preliminary Alternatives Process and Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.
25	4-10	DEIS Section 4.2: Demographics	In the first paragraph of Section 4.2.3, please explain how "negligible impact" was determined. Additionally, please expand upon/summarize what the impacts are and how they might differ between the Build Alternatives.	The term "negligible" has been replaced with "minimal" in FEIS, Chapter 5, Section 5.2.3.
26	4-10	DEIS Section 4.2: Demographics	In the second paragraph of Section 4.2.3, please provide the percentage of residential relocations to justify use of the word "minimal" and for general understanding.	Text has been updated to state 'The Preferred Alternative does not result in any full acquisitions or residential or business displacements. [...]The maintained function of I-495 and I-270, access to travel choices, and enhanced trip reliability would maintain the area's desirability for future economic activity. Therefore, the Preferred Alternative would have minimal impacts on the overall population of the CEA Analysis Area'.
27	4-14, 4-15	DEIS Section 4.3: Communities and Community Facilities	Please ensure 'Acreage Range of Property Acquisitions' on Table 4-3 of this section and Table 3-9 in Appendix E match.	The FEIS presents the impacts comparison between the Preferred Alternative and the No Build. The acreage of impacts for the Preferred Alternative for each CEA Analysis Area have been updated and corresponding data in Appendix F has also been updated.
28	4-23	DEIS Section 4.5: Property Acquisitions and Relocations	Section 4.5.3 states full numbers of relocations (25 or 34 depending on Alternative), yet the bulleted section gives ranges of relocations (15-20 for Forest Glen and 11 to 14 for Silver Spring). Please clarify why a range is given or state full numbers based on the Managed Lanes Study's (MLS) definition of when a full property acquisition will take place.	As described in the Supplemental DEIS, the Preferred Alternative avoids all residential and business displacements.
29	General	DEIS Section 4.7: Historic Architecture and Archaeological Resources	Please see comments regarding historic resources in Attachment B - Summary of Public Comments, and update Section 4.7 accordingly.	Comments related to historic properties have been addressed. Refer to FEIS Chapter 5, Section 5.7 for Historic Architectural and Archeological Resources discussion; Chapter 9 for Responses to DEIS Comments; and Appendix J for the Section 106 Programmatic Agreement.
30	General	DEIS Section 4.9: Noise	Please add language to this section regarding the avoidance and consideration of wetlands and waterways as a factor in determining the location and feasibility of noise barriers.	Language has been added to the FEIS regarding the avoidance and consideration of wetlands and waterways as a factor in determining the location and feasibility of noise barriers.

No.	Page	DEIS Section	Comment	Response
31	4-78	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	In Section 4.12.1, consider rephrasing the following sentence, "According to COMAR 26.23.01.04, nontidal wetland buffer shall be expanded to 100 feet for nontidal Wetlands of Special State concern, nontidal wetlands with adjacent areas containing steep slopes or highly erodible soils (soils with an erodibility factor greater than 0.35), and outstanding national resource waters." to include the full definition of expanded buffers, which includes slopes immediately adjacent to the nontidal wetlands in excess of 15 percent, or remove the definition of highly erodible soils. If choosing to list one of those definitions, please define both, or neither, to avoid bias in paraphrasing the COMAR definition. Also capitalize "Outstanding National Resource Waters (ONRW)."	Changed to "According to COMAR 26.23.01.04, nontidal wetland buffers may be expanded in special circumstances." in the NRTR, however this text is not included in the FEIS.
32	4-78	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	In Section 4.12.1, nontidal wetlands regulated by MDE are not defined. Please consider adding a reference, or definition in this section.	This text is not included in the FEIS. Refer to the NRTR (FEIS Appendix M), Section 2.3.1, for the revised text.
33	4-78	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	In Section 4.12.1, update "Section 401 Water Quality Certificate," to "Section 401 Water Quality Certification."	The text has been updated to "Section 401 Water Quality Certification" in the FEIS.
34	4-79	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	Section 4.12.1 references a letter from the US Coast Guard dated September 19, 2019, stating that a bridge permit would not be required under Section 10 for the American Legion Bridge; however the letter is missing from the referenced appendix. Please send a copy of this correspondence to support the JPA and attach the letter to the Agency Correspondence Appendix of the FEIS.	This correspondence has been included in the NRTR and the Agency Correspondence Appendix S in the FEIS.
35	4-79	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	In Section 4.12.1, please add the bold sections to the following sentence, "The study team, including roadway engineers, stormwater engineers, structural engineers, construction engineers, environmental planners, and environmental scientists, worked in close coordination with the regulatory agencies, USACE, MDE, and other resource agencies as needed, for nearly two years to review delineated features and coordination avoidance and minimization of impacts to wetlands and waterways throughout the study corridor to the greatest extent practicable at this stage in design. Avoidance and minimization of impacts to wetlands and waterways shall continue throughout design." Also, this sentence is the introduction to wetlands and waterways methodology section. Consider moving this sentence to Section 4.12.4.	As the study has advanced, this exact text is not included in the FEIS; however, ongoing coordination has occurred since the DEIS to further avoid and minimize the resources and this has been explained in the FEIS. Refer to SDEIS Chapter 2 and FEIS Chapters 3, 5 and 7 for more detailed information on avoidance, minimization and mitigation efforts.
36	4-80	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	Please update Table 1 in the Wetland Delineation Memo to be consistent with Table 4-19 in this section. Please ensure future revisions of this table are consistent across the FEIS, NRTR and Wetland Delineation Memo (or amendments to these documents).	A revised Wetland Delineation Memo is included with the revised JPA to incorporate these updates. The previous draft of the Wetland Delineation Memo reported the delineated features at the time of the first JPA submission.
37	4-81	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	Please ensure the MDE Impact tables in future JPA submissions are consistent with the numbers in Table 4-20 of this section.	Table 4-20 reported all impacts, regardless of jurisdiction, while the MDE impact tables in the revised JPA report only impacts to features that are jurisdictional to MDE. For this reason, the impacts in these two tables will be different.

No.	Page	DEIS Section	Comment	Response
38	4-82	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land. Will the proposed mitigation for impacts to NPS wetlands will be included in the Compensatory Mitigation Plan? We understand that a Wetland Statement of Findings (WSOF) will be developed once a Preferred Alternative has been identified. Please ensure that MDE and USACE are included in the coordination regarding NPS mitigation, and clearly define if the NPS mitigation is part of, or in addition to, mitigation required by MDE and the USACE, and update the JPA as necessary.	NPS mitigation is separate from 404 mitigation for the MLS. A SOF was developed and submitted to NPS, in accordance with DO #77-1, including the mitigation identified to account for permanent impacts to NPS wetlands. The draft SOF was submitted as SDEIS, Appendix G, and the Final SOF will be submitted with the ROD.
39	4-84, 4-86	DEIS Section 4.12: Waters of the US and Waters of the State, including Wetlands	In Section 4.12.4, MDE regulates all floodplains, not just the FEMA floodplain. Please remove "FEMA" from the first sentence of the first full paragraph on page 4-84. Additionally, remove "FEMA" from 100-year floodplain description on page 4-86, or add a caveat that additional floodplain impacts will be avoided and minimized as the project progresses.	"FEMA" has been removed from the reference to floodplains in the FEIS, according to this comment.
40	4-87	DEIS Section 4.13: Watersheds and Surface Water Quality	Based on recent discussions with SHA, stormwater management locations will be added to the JPA. Please update Section 4.13 Watershed and Surface Water Quality to discuss how proposed stormwater management will mitigate water quality impacts.	The International Stormwater BMP Database 2020 Summary Statistics indicates that commonly used stormwater BMPs reduce total suspended solids, total nitrogen, total phosphorous, and heavy metals such as copper, lead, and zinc from stormwater before it enters streams (The Water Research Foundation, 2020). This information was added to FEIS Chapter 5, Section 5.13, Watershed and Surface Water Quality.
41	4-88	DEIS Section 4.13: Watersheds and Surface Water Quality	Please clarify if the Potomac and Patuxent Scenic and Wild Rivers Program Advisory Boards are still active and providing input on the project.	There is no longer a Board, but there is a contact at DNR, Andrew Mengel, who has taken over coordination for Scenic and Wild Rivers. MDOT SHA is providing Mr. Mengel with NPS comments related to aesthetics around the Potomac River and will coordinate with him further on this subject.
42	4-95	DEIS Section 4.15: Floodplains	Floodplain is misspelled in the second paragraph after the COMAR reference.	Noted.
43	4-97	DEIS Section 4.15: Floodplains	The first sentence on this page states, "...by adjusting stormwater structures to ensure that no property damage or impacts to other natural resources result." This statement seems to make a commitment that is not consistent with the current JPA submittal. Please rephrase, or explain in more detail.	This statement has been revised for clarity in FEIS, Chapter 5, Section 5.15.
44	4-97	DEIS Section 4.15: Floodplains	Following the discussion of FEMA floodplains, Section 4.15.4 notes that "Stormwater management would be provided, and all hydraulic..." however, stormwater management is not a typical approach to addressing FEMA issues of increased fill in the floodplain or raised water surface elevations (such management would need to occur upstream of the floodplain to decrease hydrology and offset the hydraulic changes associated with floodplain fill, grading and structural changes). Consider rephrasing this section for clarity. Also, consider clarifying the following phrase "...hydraulic structures would be designed to accommodate flood volumes without..." Typically structures (culverts etc.) are designed to accommodate flood flow, not volume, unless the implications is that the design based on flow is intended to ultimately reduce the volume of impoundment upstream of the structure at peak flow. If so, please rephrase for clarity.	Comments considered. Refer to FEIS Chapter 5, Section 5.15.
45	4-103	DEIS Section 4.17: Terrestrial Wildlife	Section 4.17 mentions vernal pool habitat under Affected Environment (4.17.2), but not under Environmental Consequences (4.17.3) or Mitigation (4.17.4). Consider discussing vernal pools under 4.17.3 and referencing the 3:1 mitigation ratio under 4.17.4.	This information regarding vernal pools as habitat for terrestrial wildlife has been added to these sections in the FEIS. Refer to Chapter 5, Sections 5.17. Vernal pools will not be impacted by the Preferred Alternative.

No.	Page	DEIS Section	Comment	Response
46	4-103	DEIS Section 4.17: Terrestrial Wildlife	In Section 4.17.2, please reference the number of vernal pools found within the study area in this section of the report. It currently states there are no mapped vernal pools, which could lead a reader to think there are no vernal pools within the study area. It has recently been determined that one vernal pool is confirmed within the project LOD and the remainder will be confirmed in spring 2021, please clarify this section.	The vernal pools identified in the Spring 2021 field review have been added to the FEIS. Refer to Chapter 5, Section 5.17.2. No vernal pools will be impacted by the Preferred Alternative.
47	4-106	DEIS Section 4.18: Aquatic Biota	Table 4-28: There are several occurrences where multiple years of sampling occurred and the range is represented for example as "poor - fair/good" instead of "poor - good." This can be a misleading representation of the watershed conditions where "fair/good" looks like a hybrid ranking, but is actually two separate rankings. Consider revising.	For habitat scores, the narrative rankings in question are not hybrid rankings that represent data from multiple years (i.e., two or more separate rankings). MCDEP, FCDPWES, and VDEQ use a habitat ranking scale that includes "fair/poor", "good/fair", etc. For benthic and fish IBI rankings presented in DEIS Table 4-28, those hybrid rankings do represent data collected from two separate years. The table has been removed from the FEIS since it presented the data inaccurately. New summary tables were added to the FEIS Aquatic Biota section that present the data in a clearer way.
48	4-106	DEIS Section 4.18: Aquatic Biota	Table 4-28 states that Fairfax County Middle Potomac Watershed Benthic Invertebrates (IBI Score Range) are rated Very Poor; however, they are rated Good in NRTR. Confirm which is correct and revise accordingly.	The range of benthic IBI scores presented in the NRTR is correct (Very Poor - Good) and the FEIS has been revised accordingly.
49	4-107	DEIS Section 4.18: Aquatic Biota	COMAR 26.17.04.06 requires that total length of culverts be limited to 150 feet unless it can be demonstrated through an environmental study that any adverse impacts will be adequately mitigated. Please provide further information in regards to installation of new culverts or extensions of existing culverts beneath the on/off-ramps that would result in culverts greater than 150 feet in total length.	Where possible, new culverts have been limited to 150 feet, new culverts >150-feet are discussed in the AMR (FEIS, Appendix N) with an explanation of why their length cannot be limited to less than this length.
50	4-110	DEIS Section 4.19: RTEs	Please correct the spelling of anadromous (it is currently spelled anadrous).	The spelling of anadromous was corrected in the FEIS.
51	4-113, 4-117	DEIS Section 4.19: RTEs	Please include an update regarding the outcome of the acoustic bat surveys in the FEIS.	An update regarding the acoustic bat surveys has been included in the FEIS. Refer to Chapter 5, Section 5.19.2.
52	4-115, 4-117	DEIS Section 4.19: RTEs	Include an update on the status of the RTE surveys in the FEIS.	An update regarding the RTE plant surveys was included in the SDEIS, Section 4.19, and FEIS, Section 5.19
53	4-116	DEIS Section 4.19: RTEs	Can the species listed in Table 4-32 be separated out by state instead of combined?	Yes, the species listed in Table 4-32 of the DEIS have been reorganized by state for the FEIS.
54	4-122, 4-143	DEIS Section 4.21: Environmental Justice and Title VI Compliance	In Sections 4.21.2 and 4.21.5C, consider clarifying the following statement, "A determination of whether disproportionately high and adverse effects would occur under the Preferred Alternative to EJ populations." Is this only for the preferred alternative?	Yes, the determination has been made on the Preferred Alternative per Executive Order 12898, USDOT Order 5610.2(a), FHWA Order 6640.23A, and FHWA memorandum Guidance on Environmental Justice and NEPA (2011).
55	4-142	DEIS Section 4.21: Environmental Justice and Title VI Compliance	In Table 4-38: Potential for Adverse Effects to Environmental Resources within EJ Populations, please ensure that number of relocations under each alternative is correct, and confirm if Impacted Community Properties within EJ Populations includes impacted parks.	Table 4-38 has been updated to Table 5-46: Comparison of Effects to EJ Populations versus Non-EJ Populations. Property acquisition and park impacts within EJ block groups are identified in Table 5-46.
56	General	DEIS Section 4.22: Indirect and Cumulative Effects (ICE)	Please update ICE to include potential long-lasting changes in work patterns due to COVID-19.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
57	4-147	DEIS Section 4.22: Indirect and Cumulative Effects (ICE)	Please add Maryland Department of Natural Resources as a data source for Forests listed in Table 4-39: <i>ICE Analysis Data Sources and Methodology</i> .	This was updated in the FEIS.
58	4-148	DEIS Section 4.22: Indirect and Cumulative Effects (ICE)	Section 4.22.2 states that there are 1,061 stream segments within the corridor study boundary; however, the NRTR and DEIS state show 1,075 stream segments. Please confirm which is accurate and revise accordingly.	The impacts are presented differently in the JPA than they are in the NRTR and FEIS. The JPA presents the impacts by jurisdiction, whereas the NRTR and FEIS present the overall impacts to all features, regardless of jurisdiction. The impacts have been updated for the revised JPA and the FEIS.

No.	Page	DEIS Section	Comment	Response
59	4-154	DEIS Section 4.22: Indirect and Cumulative Effects (ICE)	Please update Table 4-40: Indirect Effects in the ICE Analysis Area to include language for how augmented culverts could indirectly affect drainage patterns and potential for flooding up or downstream of the culvert. Additionally, please include language about how noise barriers could affect or impact wetlands.	The indirect impacts have been updated to reflect the culvert augmentation.
60	4-157	DEIS Section 4.23: Consequences of Construction	In the last sentence of the first paragraph, please add natural resources to the list of "impacts associated with construction that will be further evaluated for the Preferred Alternative". Additionally, please add a paragraph for natural resources within the body of section 4.23.	Construction impacts on wetlands and waters has been included in the FEIS. Refer to FEIS Chapter 5, Section 5.23.5 and detailed discussion in Appendix N, the Avoidance, Minimization and Impacts Report FEIS.
61	4-160, 4-161	DEIS Section 4.24: Commitment of Resources	Please add additional language in Section 4.24.2 (Short-Term Effects/Long-Term Effects) regarding the short and long-term effects on natural resources.	The FEIS includes an updated discussion of the Short-Term Effects/Long-Term Effects, refer to FEIS Chapter 5, Section 5.24.2.
62	5-2	DEIS Section 5: Section 4(f) Evaluation	Consider briefly summarizing the exceptions to the requirement for Section 4(f) approval in Section 5.2.1 instead of only referencing the Appendix where the exceptions are defined.	A detailed description of the exceptions is included in Appendix G and the Final Section 4(f) Evaluation. A summary is provided in the FEIS, Chapter 6. Based on the Preferred Alternative, the only exceptions are to archeological sites within GWMP.
63	5-3	DEIS Section 5: Section 4(f) Evaluation	Section 5.5 - Section 4(f) Properties of the DEIS says there are 111 properties inventoried; however, there appear to be a total of 116 properties inventoried (48 properties avoided, 36 de minimis finding, 22 requiring Individual Evaluation, and ten 4(f) exempt). Please change 111 to 116 and update Figures 5-1 to 5-3 to show the missing properties, or explain the discrepancies. Additionally, change 43 to 48 when referring to avoided properties. According to Table 5-1, there are 48 properties that would be avoided. Please update as appropriate.	The Final Section 4(f) reflects the updated total for the number of Section 4(f) properties identified, avoided or impacted under the Preferred Alternative. Refer to the FEIS, Chapter 5 and Appendix G.
64	7-6	DEIS Section 7: Public Involvement and Agency Coordination	Footnote 5 on page 7-6 refers to FEMA 100-year floodplain. Please remove the reference to FEMA, as MDE regulates all 100-year nontidal floodplains.	The Agency Coordination section has been updated for the FEIS.
65	7-13	DEIS Section 7: Public Involvement and Agency Coordination	Section 7.4 states that Rock Creek will be avoided from relocation. Impact Plates 11A and 11B (Station 485+00 to 492+00) show that I-495 is proposed quite close to Rock Creek and a retaining wall does not appear to be proposed. Please clarify the work proposed in this location and ensure constructability is appropriate.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Rock Creek is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
66	71	DEIS Appendix B: Alternatives Technical Report	In Section 5.3 - Interchanges, the final paragraph indicates that interchange locations could be changed by the developers. How would this be handled through NEPA and Permitting?	Should design changes occur, MDOT SHA and FHWA will evaluate potential changes to the impact analysis and will assure that the Developer prepares necessary documentation under NEPA.

No.	Page	DEIS Section	Comment	Response
67	117	DEIS Appendix B: Alternatives Technical Report	Section D - Effects of Screened Alternatives states that all alternatives use the same typical section for the American Legion Bridge. Why would the single lane alternatives include a wider bridge section than necessary?	The proposed work needed to construct the new American Legion Bridge would result in the same outside footprint for the new structure and approach roadway on either side of the bridge.
68	147	DEIS Appendix B: Alternatives Technical Report	Table 7-1: It is not clear why Alternative 5 - not retained, is included. It seems only to be included to make Alt. 9M seem like not the least impactful.	As noted in the DEIS, Alternative 5 was found to not meet the Study's Purpose and Need. However it was included in the DEIS for impact comparison purposes only. Refer to DEIS, Chapter 2, Section 2.5.3.
69	148	DEIS Appendix B: Alternatives Technical Report	Table 8-1: It is not clear why Alternative 5 - not retained, is included. It seems only to be included to make Alt. 9M seem like not the least expensive.	Prior to the identification of Alt 9M, it was determined that as a matter of public and agency interest, Alt 5 would be included along with the No Build to allow for comparison of impacts. Refer to DEIS, Chapter 2, Section 2.5.3.
70	General	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	Should the MD 200 Diversion Alternative be reanalyzed due to COVID-19?	Refer to the response to comment #14 above.
71	General	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	It is not explained why the two lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs seems quite congested and would result in minimal impacts to parkland or residences. Improvement of the East Spur interchange alignment and function might result in significant improvement to traffic functions.	<p>As explained in the DEIS, the intent of the MD 200 Diversion Alternative was to provide two managed lanes per direction from the American Legion Bridge to I-370 (and MD 200), consistent with the other Build Alternatives, along with improvements to I-95 between MD 200 and I-495, and I-495 from I-95 to west of MD 5 (consistent with the other Build Alternatives). The MD 200 Diversion Alternative was analyzed as a full length alternative to avoid certain environmental and community impacts on the top side of I-495. The MD 200 Diversion Alternative would include work along I-495 east of the I-270 West Spur to transition the proposed lanes back to the existing conditions. If the lanes were extended further to the East Spur, then the lane transition would have to occur along the section of I-495 adjacent to the parkland that the alternative was intended to avoid. Similarly, work would occur on the I-270 East Spur north of I-495 to develop managed lanes (northbound) or transition back to the existing section (southbound) after/before it reaches I-495 to avoid impacts to the parkland just east of the East Spur. The limits of the proposed improvements were shown on Figure 6-8 of DEIS Appendix B (Alternatives Technical Report).</p> <p>As noted in the DEIS, the MD 200 Diversion Alternative does not consider transportation system management/transportation demand management (TSM/TDM) improvements along I-495 between the I-270 East Spur and I-95 because they would cause impacts to the properties and parkland along I-495 that the alternative was intended to completely avoid.</p> <p>Refer to Chapter 9, Section 3.2.B for a response to Alternatives Not Retained for Detailed Study, including the MD 200 Diversion Alternative.</p>
72	7	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	In Section B, TSM/TDM, the Interchange Reconfigurations bullet indicates that these were not considered due to potential environmental and property impacts, despite these impacts being included in the other retained alternatives. Could interchange improvements result in improved operations through the existing I-495 top section with relatively minor impacts?	The MD 200 Diversion Alternative was being evaluated as a potential complete avoidance option, and therefore the evaluation only included elements that could be accommodated with no impacts to environmental resources and properties along the top section of I-495.

No.	Page	DEIS Section	Comment	Response
73	12	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	In the final bullet of Section 2 -Travel Forecasting, it is not clear why a comparison with the no-build alternative is relevant.	Supporters of the MD 200 Diversion Alternative suggested that MD 200 has a lot of spare capacity to accommodate extra traffic that could be diverted from other routes, such as I-495. The baseline when determining spare capacity on the facility is the No Build alternative.
74	20	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	In Section 6 - Effect on Local Roadway Network, it is not clear why removal of widening along I-95 is discussed. Other screened alternatives do not discuss removal of portions of the alternative.	Widening along I-95 is outside of the project limits and was not included as part of any of the other Screened Alternatives. However, this widening was part of the MD 200 Diversion Alternative proposed by Montgomery County DOT at the BPW meeting on June 5, 2019, and MDOT SHA agreed to include it as part of the overall evaluation because this would allow the alternative to provide a continuous managed lane system that connects with MD 200. The agencies agreed with this approach at a meeting in July 2019. But, for the metric of "Effect on Local Roadway Network," the results shown in Table 6 do not reflect a fair comparison amongst the alternatives, because the numbers for the MD 200 Diversion Alternative are boosted by the I-95 widening. If this widening were not part of the MD 200 Diversion Alternative (consistent with the other Screened Alternatives), it would perform poorly in this metric as it does with all the other metrics.
75	28	DEIS Appendix B: Appendix A: MD 200 Division Alternative Analysis Results Paper	The bottom paragraph of Section VI - Conclusions states additional environmental impacts would be associated with improvements to I-95, without indicating how minor these impacts would be or comparing them to the reductions in impacts to other resources associated with this alternative.	The impacts associated with the MD 200 Diversion Alternative are described qualitatively and quantitatively, where applicable on page 25 of this report. This discussion specifically states what the impacts are along the I-95 portion of this alternative.
76	General	DEIS Appendix B: Appendix B: Alt 9M	It is not explained why the two lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs seems quite congested and would result in minimal impacts to parkland or residences. Improvement of the East Spur interchange alignment and function might result in significant improvement to traffic functions.	The purpose of the MD 200 Diversion Alternative is for traffic between I-95 and the west side of I-495 to utilize I-270 and MD 200 as an alternative to I-495. This includes the I-270 West Spur but not the portion of I-495 between the spurs. See response to comment #71.
77	5	DEIS Appendix B: Appendix B: Alt 9M	The final paragraph of Section A- Existing Congestion on Top Side of I-495 addresses the proposed system providing cohesive and reliable traffic relief, which does not belong in a discussion of the existing conditions and indicates a presumption prior to the analysis.	The comment relates to the purpose and need for the proposed project.
78	19	DEIS Appendix B: Appendix B: Alt 9M	Section III - Environmental compares impacts to Alternative 5 which was not carried forward. Suggest eliminating these references and only compare impacts to the other retained alternatives.	As noted in the DEIS, Alternative 5, like the No Build Alternative, does not meet the Study's Purpose and Need; however, they were both included in the DEIS for impact comparison. Refer to DEIS, Chapter 2, Section 2.5.3.
79	23	DEIS Appendix B: Appendix B: Alt 9M	Paragraph 3 of Section V - Conclusions states "there are relatively small differences between Alternatives 5 and 9...", despite previously stating that up to nine residential displacements would be avoided, 2.1 Acres of 4(f) impacts would be reduced, and other natural environmental impacts would also be reduced. Suggest rewording to avoid the prejudicial language.	The language was not included in the FEIS, which focused on the Preferred Alternative.
80	General	DEIS Appendix C: Traffic Technical Report	The study does not adequately address the phasing of construction for the different proposed contract sections nor the affect should any phase not be completed. Consider providing a narrative overview of how traffic operations will be affected during construction of any phase as well as if only one or more phase is completed.	See response to Comment #12.

No.	Page	DEIS Section	Comment	Response
81	5	DEIS Appendix C: Traffic Technical Report	Section H - Consideration of Alternative 9: Since Alternative 9M has been studied to the same level of detail as the screened alternatives, it would be appropriate to include within this report rather than as a stand alone report in order to better compare among the screened alternatives.	Alternative 9M was identified after the Screened Alternatives in response to public and agency comments. Therefore, a separate report was appropriate.
82	154	DEIS Appendix C: Traffic Technical Report	The first bullet under Section 7 - Next Steps indicates that additional direct access locations beyond the ones stated previously will be considered. How would these locations be included in the NEPA and permitting process?	See response to Comment #66.
83	General	DEIS Appendix D: Natural Resource Mapping	Please ensure the LOD accounts for room to construct noise barriers. Many noise barriers shown on the resource mapping are right up against of slightly outside the LOD.	The LOD has been reviewed to ensure it accommodates revisions to the noise analysis and updated locations of proposed noise barriers. LOD updates have been reflected in the FEIS.
84	Multiple	DEIS Appendix D: Natural Resource Mapping	Placement of noise barriers should also avoid and minimize impacts to regulated resources. Please make sure an effort to minimize impacts from potential new, replaced, or reconstructed noise barriers to the resources provided in Table 1 attached.	Since publication of the DEIS, the locations of proposed and relocated sound barriers have been reviewed for constructability and in regard to wetlands and waterways impacts and LOD constraints. Impacts were minimized wherever possible. The updated noise analysis with details on noise mitigation are included in the FEIS. The final design and location of the noise barriers will be determined during the final design phase of the project. Consideration of regulated resources in the preliminary placement of the noise barriers has been factored into the revisions associated with the Preferred Alternative and documented in the FEIS.
85	Multiple	DEIS Appendix D: Natural Resource Mapping	Labels are missing from some of the regulated features. Please ensure labels are added to the resources listed in Table 2.	The labels have been corrected.
86	Maps 104, 105, 106 & 107	DEIS Appendix D: Natural Resource Mapping	Please show the following Forest Conservation Act Easements, as shown on Appendix D, on the NRI Mapping of the Wetland Delineation Report: 1. Map 104 shows an easement south of Wooten Pkwy and west of I-270. Please show this on Map 116 of the NRI mapping. 2. Map 105 shows an easement west of Falls Road and east of I-270. Please show this on Map 117 and 118 of the NRI mapping. 3. Map 106 shows an easement west of Research Blvd and east of I-270. Please show this on Map 121 of the NRI mapping. 4. Map 107 shows an easement south of Guide Drive and east of I-270. Please show this on Map 122 of the NRI mapping.	The forest conservation easements have been added to the Environmental Resource Mapping in the FEIS.
87	6	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	Since Alternative 9M is advanced for study in the DEIS, consider including specific impacts associated with Alternative 9M in the Community Effects Assessment and Environmental Justice Analysis.	The Alternative 9M resource impacts were analyzed and compared to the other build alternatives in the DEIS, refer to Sections 4.3 and 4.21. The referenced technical reports represented a moment in time coincident with the DEIS. The latest analysis on the Preferred Alternative is presented in the FEIS and supporting Appendix F, Final CEA/EJ Technical Reports.
88	49	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	In Section 3.3.2.B - Screened Alternatives, please provide quantitative data or a reference when referring to tax revenues lost and gained.	As stated in Section 3.3.2.B the tax base is "revenue generated through sales tax and use tax, commercial property tax, and income tax on residents."

No.	Page	DEIS Section	Comment	Response
89	91	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	Section 4.3.4, please ensure the color descriptions within the second paragraph match the color coding in Figure 4-1.	The text in CEAEJ Technical Report, FEIS Appendix F, Section 5.4.3 has been revised and the color descriptions for the Figure have been removed.
90	63,103	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	Due to public comments received regarding potential impacts to schools, in Sections 3.5.2.Bb and 4.5.2, please consider adding information regarding the impacted schools.	Specific impacts to school properties are identified in CEAEJ Technical Report, FEIS Appendix F, Table 3-9.
91	106	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	In Section 4.5.2.F, please include impact numbers within EJ communities.	Select natural resource impacts within EJ communities have been added to CEA/EJ CEA/EJ Technical Report, FEIS Appendix F, Table 5-16.
92	110	DEIS Appendix E: Community Effects Assessment/ Environmental Justice Technical Report	In Sections 4.21.2 and 4.21.5C, consider clarifying the following statement, "A determination of whether disproportionately high and adverse effects would occur under the Preferred Alternative to EJ populations." Is this only for the preferred alternative?	See response to Comment #54.
93	General	DEIS Appendix J: Noise Analysis Technical Report	Have locations of proposed and relocated sound barriers been reviewed for constructability with regard to wetlands and waterways impacts? In some areas where barriers are proposed, the LOD is very tight (for example along Rock Creek). In other areas, barriers are shown crossing bridges over waters. Do the proposed bridge widths include allowance for the barriers (for example over Northwest Branch)?	Since publication of the DEIS, the locations of proposed and relocated sound barriers have been reviewed for constructability and in regard to wetlands and waterways impacts and LOD constraints. Impacts were minimized wherever possible. The updated noise analysis with details on noise mitigation are included in the FEIS. The final design and location of the noise barriers will be determined during the final design phase of the project. Consideration of regulated resources in the preliminary placement of the noise barriers has been factored into the revisions associated with the Preferred Alternative and documented in the FEIS.
94	58	DEIS Appendix J: Noise Analysis Technical Report	In Section 4.2.2, please add language to consider natural resources as a factor used to determine 'reasonableness' when designing noise walls.	The determination of reasonableness is made in conformance with 23 CFR 772 and the MDOT SHA Highway Noise Abatement Planning and Engineering Guidelines. Per the federal regulations, reasonableness is determined based upon three criteria: approval from benefited residences, cost effectiveness and acoustic effectiveness. Direct impacts to natural resources are accounted for in the feasibility determination, which evaluates site constraints present in the proposed location of the noise wall.
95	General	DEIS Appendix K: Hazardous Materials Technical Report	Address any potential hazardous materials contamination at the mitigation sites and off-site stormwater management sites.	The off-site SWM sites have been reviewed for hazardous materials. Refer to FEIS Appendix D for the Compensatory Off-site Stormwater Management Report.
96	Map 5, 24	DEIS Appendix K: Appendix B: 700-foot Scale Sites of Concern Maps	Maps 5 and 24, railroad tracks run along sites 41, 42, and 43 . Please consider increasing the priority levels of these sites and determine if further investigation is needed.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because sites 41, 42, 43, 53, 78, 117, 176 are located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	Page	DEIS Section	Comment	Response
97	Map 6	DEIS Appendix K: Appendix B: 700-foot Scale Sites of Concern Maps	Map 6, railroad tracks run along the east perimeter of site 53. Please consider increasing the priority levels at this site and determine if further investigation is needed.	See response to Comment #96.
98	Map 7	DEIS Appendix K: Appendix B: 700-foot Scale Sites of Concern Maps	Map 7, Sligo Creek runs along the western side of site 78. Please consider increasing the priority level at this site and determine if further investigation is needed.	See response to Comment #96.
99	Map 9	DEIS Appendix K: Appendix B: 700-foot Scale Sites of Concern Maps	The Priority Ranking Table mentions possible dumping at site 117, located on Map 9. The site is also located along Paint Branch. Consider further investigation into this site due to possible dumping.	See response to Comment #96.
100	Map 14	DEIS Appendix K: Appendix B: 700-foot Scale Sites of Concern Maps	Map 14, for site 176 consider mentioning railroad that runs along the site in the Priority Ranking Table and determine if further investigation is needed.	See response to Comment #96.
101	N/A	DEIS Appendix L: Natural Resources Technical Report	Please refer to Comment No. 82 of the Administrative DEIS Comment Errata Response dated December 13, 2019. Waterway discrepancies have not been addressed. Waterway 8W is classified as perennial on the datasheet, and intermittent in the Wetland Delineation Memo table and NRTR Impact Tables. Waterway 27H is classified as perennial in the NRTR Impact Tables, and intermittent on the datasheet and Wetland Delineation Memo. Please update accordingly.	This information has been updated in FEIS Appendix M.
102	General	DEIS Appendix L: Appendix A: Impact Tables	Please explain why Alternative 9M is not included on any impact table. Additionally, why is Alternative 13C not included on the waterways impact tables? Consider adding these alternatives to their respective tables.	The resource impacts were analyzed and compared to the other build alternatives in the DEIS, refer to Sections 4.11 through 4.20. The referenced technical reports represent a moment in time. The latest analysis on the Preferred Alternative is presented in the FEIS and the Appendices that include the Final Technical Reports.
103	32	DEIS Appendix L: Appendix A: Impact Tables	The impact numbers from 23K_D do not match the impact numbers on the MDE impacts table provided with the JPA for Alternatives 8, 9 and 13B. Please clarify which impact numbers are correct and revise accordingly.	These impact numbers are consistent in the NRTR in Appendix M of the FEIS.
104	35	DEIS Appendix L: Appendix A: Impact Tables	Please explain the discrepancies between summary of impacts in Table 2.3-2 and impacts presented in the JPA.	It is unclear which table is being referenced? However, the impacts are presented differently in the NRTR, DEIS, and JPA. The NRTR and JPA present the impacts by jurisdiction, whereas the FEIS presents the overall impacts to all features, regardless of jurisdiction.
105	Map 6	DEIS Appendix L: Appendix F: Delineated Features Maps	Include the culvert for 22P to the Delineated Features Map.	The source of intermittent hydrology appears to be groundwater. The culvert that leads to 22P is perched above the 22P groundwater hydrology source and the culvert is not intermittent, but ephemeral, therefore the culvert has not been added.
106	Map 10	DEIS Appendix L: Appendix F: Delineated Features Maps	Please revise resource 22Z_B to 22Z_C as shown in the MDE Impact Plates. Please update this resource on the Wetland Delineation Memo, Delineated Features Mapbook as well.	This feature has been revised in the Wetland Delineation Memo and mapping, as necessary.
107	Map 15	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show the culvert for 20C (also requested in MDE's 45 day comment letter)	Field observations confirm source of hydrology for 20C is a 3-foot culvert pipe running under I-495. This feature has been added in the revised JPA.
108	Map 20	DEIS Appendix L: Appendix F: Delineated Features Maps	Revise to show the PEM wetland that was added to the left bank of 19T. This feature has not been added to the Delineated Features Map, please revise. (also requested in MDE's 45 day comment letter)	As described in the Supplemental DEIS, this wetland or stream is located outside the Preferred Alternative limits of build improvements and impacts have now been completely avoided. See Figure 1-1 in the Supplemental DEIS on page 1-2. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	Page	DEIS Section	Comment	Response
109	Map 37	DEIS Appendix L: Appendix F: Delineated Features Maps	Show 12EE through the culvert and update the map to show the resource on both sides of I-495 (also an MDE 45 day comment).	See response to Comment #108.
110	Map 38	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show 12S through the culvert and update the map to show the resource on both sides of I-495. (also requested in MDE's 45 day comment letter)	See response to Comment #108.
111	Map 41	DEIS Appendix L: Appendix F: Delineated Features Maps	Please label resource 12WWW_C. Please label this feature on the Wetland Delineation Memo, Delineated Features Mapbook as well.	See response to Comment #108.
112	Map 52	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show and label resources 10S_C and 10BB_C. Please label these features on the Wetland Delineation Memo, Delineated Features Mapbook as well.	See response to Comment #108.
113	Maps 52 and 99	DEIS Appendix L: Appendix F: Delineated Features Maps	1SS_C (Map 99) and 10Q_C (Map 52) are shown in the Delineated Features Table but not labeled on the Delineated Features Map. Please add these features to the Delineated Features Map.	See response to Comment #108.
114	Map 54	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show and label 10J_C (Map 54) on the Delineated Features Maps.	See response to Comment #108.
115	Map 62	DEIS Appendix L: Appendix F: Delineated Features Maps	During the site visit, it was determined that 9B (Map 62) was not a wetland. Please remove it from the wetland delineation.	See response to Comment #108.
116	Map 68	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show and label resources 7S_C (Map 68) on the Delineated Features Maps.	See response to Comment #108.
117	Map 73	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show the approximate location of the pipe that 7G_2 flows into on Map 73 (also requested in MDE's 45 day comment letter).	See response to Comment #108.
118	Map 99	DEIS Appendix L: Appendix F: Delineated Features Maps	Please change the eastern portion of 1T (Map 99) to PFO and the western portion (dominated by Phragmites australis) to PEM.	See response to Comment #108.
119	Map 100	DEIS Appendix L: Appendix F: Delineated Features Maps	Please extend 1WW east, along the fence line and connect it with 1XX on Map 100 (also requested in MDE's 45 day comment letter).	See response to Comment #108.
120	Map 119	DEIS Appendix L: Appendix F: Delineated Features Maps	Please show and label resource 26B_C1 (Map 119) on the Delineated Features Map.	This feature has been shown and labeled in the delineated features mapping.
121	General	DEIS Appendix L: Appendix G: Field Datasheets	Please provide datasheets for the additional resources found during the agency field reviews.	Data sheets for the additional resources identified during the agency field reviews have been added.
122	Photos 1: 238 and 239	DEIS Appendix L: Appendix H: Photo Documentation	Photo captions for Water 5BB state that it is an ephemeral stream but the datasheet (PDF page 772) indicates that it is an intermittent stream. Please clarify which stream classification is correct.	See response to Comment #108.
123	Photos 2: 474	DEIS Appendix L: Appendix H: Photo Documentation	The photo caption states that 11B is an intermittent stream but the data sheet (PDF Page 1525) states that it is a PFO wetland. Please clarify which resource is 11B.	See response to Comment #108.

No.	Page	DEIS Section	Comment	Response
124	Photos 2: 514	DEIS Appendix L: Appendix H: Photo Documentation	A datasheet for 12JJJ could not be located. Could the datasheet (PDF Page 1700) labeled 12GGGG be mislabeled?	See response to Comment #108.
125	Photos 2: 543	DEIS Appendix L: Appendix H: Photo Documentation	The datasheet (PDF Page 1803) show 12YYY as both perennial and intermittent stream but the photo log only has the perennial portion showing. Does this resource transition from perennial to intermittent (or vice versa)? If so, update to include a picture of the intermittent portion of this resource.	See response to Comment #108.
126	Photos 3: 716 and 717	DEIS Appendix L: Appendix H: Photo Documentation	The photo caption states that 27H is perennial stream but the datasheet states it is intermittent (PDF page 2376). Please clarify which class the stream is, and update accordingly.	The classification for this feature has been cross-checked and updated, as needed.
127	General	DEIS Appendix L: Appendix J: Wetland Functions and Values Table	Function and Values Sheet for 2G shows both yes and no checked for sediment/toxication retention. Confirm which is accurate and revise.	See response to Comment #108.
128	General	DEIS Appendix L: Appendix J: Wetland Functions and Values Table	Functions and Values Sheet for 2QQQ checks sediment/toxicant retention but the Appendix J table shows a check for fish and shellfish habitat. Confirm which is accurate and revise.	See response to Comment #108.
129	General	DEIS Appendix L: Appendix J: Wetland Functions and Values Table	There is a Function and Values Sheet for 8KK but it is not in the table in Appendix J. Update the table to include 8KK.	See response to Comment #108.
130	General	DEIS Appendix L: Appendix J: Wetland Functions and Values Table	Functions and Values Sheet for 8Q shows both yes and no checked for groundwater recharge/discharge. Confirm which is accurate and revise.	See response to Comment #108.
131	General	DEIS Appendix L: Appendix N: Agency Correspondence	Please update Appendix N: Agency Coordination to include the letter from the US Coast Guard dated September, 19 2019.	The US Coast Guard Letter has been included in the Final NRTR, Appendix M of the FEIS.
132	General	DEIS Appendix M: AMR	Please add a section discussion avoidance and minimization of impact considerations regarding proposed noise barriers and utility relocations.	We have conducted a review of the Preferred Alternative to determine how noise barrier locations could affect wetlands and waterways and have included this discussion in the AMR. A comprehensive review of utility conflicts will be conducted prior to construction.
133	General	DEIS Appendix M: AMR	Please update the AMR to address public comments made during the public hearing testimonies (see Attachment B - Summary of Public Comment).	The AMR was updated to address public comments.
134	4	DEIS Appendix M: AMR	Consider discussion design build incentives as part of the Avoidance, Minimization, and Impacts Report.	MDOT SHA has included incentives for avoidance and minimization in the P3 contracts and a discussion has been added to the AMR.
135	5	DEIS Appendix M: AMR	In Section 1.1 - Regulatory Context, can the comment "EO 13807 mandates that preliminary project design incorporate more avoidance and minimization techniques ..." be expanded upon? Suggest giving examples of techniques used that would not have previously been required.	This text was deleted since EO 13807 is no longer in effect.
136	7	DEIS Appendix M: AMR	Page 7 states that there are 1,061 stream segments within the corridor study boundary; however, the NRTR and DEIS state show 1,075 stream segments. Please confirm which is accurate and revise accordingly.	1,075 stream segments was the accurately reported number in the DEIS. Based upon the Preferred Alternative, this number has been updated for the FEIS.
137	10	DEIS Appendix M: AMR	In Section 3.2.1 - Limits of Disturbance, consider clarifying that the LOD was reduced from the ROW line in cases where resources could be avoided in the third bullet.	Text was updated accordingly.
138	11	DEIS Appendix M: AMR	Was the project LOD sized to consider/include erosion and sediment control and proposed noise barrier impacts?	Yes, the LOD was sized to consider E&S control and proposed noise barrier impacts.

No.	Page	DEIS Section	Comment	Response
139	13	DEIS Appendix M: AMR	In Section 3.2.2 - Stormwater Management Assumptions, consider adding a section addressing offsite stormwater facilities and the AMR assumptions that will be made regarding their siting.	Offsite SWM is addressed in the Compensatory Stormwater Management Plan, FEIS Appendix D.
140	13	DEIS Appendix M: AMR	Table 3 of the AMR states that Wetland 4VV will lose hydrology due to SWM placement. However, this wetland is not shown as impacted on Impact Plate 48. Please confirm which is accurate and revise the AMR and Impact Plates/JPA accordingly.	See response to Comment #108.
141	16	DEIS Appendix M: AMR	Please add Plummers Island to Section 3.3 Target Areas of Avoidance and Minimization on Page 16.	Plummers Island has been added to AMR Section 2.2, Target Areas of Avoidance and Minimization.
142	24	DEIS Appendix M: AMR	In Section 3.3.5 - Potomac Crossing, please elaborate on why relocation to the west (narrative refers to this as north) is not feasible. It appears that a revised alignment adding lanes only to the west may be possible with minimal impacts to the residences in VA and the Naval Surface Warfare center. Please update to reflect current design efforts regarding minimization of impacts to Plummers Island and surrounding waters.	The Potomac Crossing section of the AMR has been updated to reflect avoidance and minimization of impacts to Plummers Island and surrounding natural resources, including the Strike Team efforts.
143	28	DEIS Appendix M: AMR	In Section 3.3.7 - Other Stream Crossings, A. Augmented / Auxiliary Culverts - Please update this section to address potential upstream and downstream effects of the higher flows produced by the augmented / Auxiliary Culverts. See also Attachment D.	This section has been updated to reflect the changes to the LOD determined for augmented culverts.
144	28 and 29	DEIS Appendix M: AMR	Define the criteria for inclusion of the stream crossings discussed in Section 3.3.7.A., B., and C, as not all significant streams are described in this section.	The criteria for inclusion of stream crossings is included in the introductory paragraph of the Other Major Stream Crossings section, Section 2.2.3, Appendix N in FEIS.
145	35	DEIS Appendix M: AMR	The impact numbers for waterways do not match the Natural Resource Technical Report Appendix A (Impact Tables) or the DEIS.	The impacts are presented differently in the JPA than they are in the NRTR and FEIS. The JPA presents the impacts by jurisdiction, whereas the NRTR and FEIS present the overall impacts to all features, regardless of jurisdiction. The impacts have been updated for the revised JPA and the FEIS.
146	35	DEIS Appendix M: AMR	Please update Section 4 to reflect avoidance of wetland buffer impacts. Consider adding discussion of permanent versus temporary impacts being determined at a later stage of design.	The AMR impact narrative Section 3.5 reflects the avoidance and minimization efforts related to wetland buffer impacts.
147	39	DEIS Appendix M: AMR	Update Section 4.2.6 to discuss possible upstream and downstream effects resulting from new / augmented culverts.	This section has been updated to reflect the changes to the LOD determined for augmented culverts.
148	General	DEIS Appendix N: Draft CMP	Please refer to comments regarding the Draft CMP that were provided in MDE's Day 15 Comment Letter dated June 5, 2020.	Noted. Comments regarding the Draft CMP have been addressed in the Final CMP and Phase II Mitigation Plans.
149	General	DEIS Appendix O: Indirect and Cumulative Effects Technical Report	Include discussion of wetland buffer and minimization of impacts to wetland buffers.	A discussion of indirect effects to wetlands, wetland buffers, and waterways has been updated in the FEIS, Chapter 5, Section 5.22.
150	56	DEIS Appendix O: Indirect and Cumulative Effects Technical Report	The numbers in Table 3-12 are not consistent with Tables 4-1 ad 4-20 within the DEIS report to the NRTR.	See response to Comment #145.
151	60	DEIS Appendix O: Indirect and Cumulative Effects Technical Report	The total number of wetland features mentioned in first paragraph of Page 60 is not consistent with DEIS or NRTR.	See response to Comment #145.
152	60/61	DEIS Appendix O: Indirect and Cumulative Effects Technical Report	Page 60 mentions 15-17 acres of impacted wetlands in the first paragraph (which is inconsistent with Table 3-12), while the first sentence in the third paragraph on page 61 mentions 15-16 acres. Confirm which is correct and revise accordingly.	See response to Comment #145.

No.	Page	DEIS Section	Comment	Response
153	General	DEIS Appendix P: Public Involvement and Agency Coordination Technical Report	Update to include information regarding DEIS public involvement/comments. Will public notice materials related to public review of DEIS be added to this report (e.g., newspaper ads)?	All appropriate outreach materials from the DEIS and the SDEIS are included in the PI report. A response to all public and agency comments received on the DEIS have been responded to in the FEIS. Refer to Chapter 9 in the FEIS for response to common theme comments and FEIS Appendix T for individual comment responses.
154	73	DEIS Appendix P: Public Involvement and Agency Coordination Technical Report	Consider updating Table 8-1 and the preceding paragraph in Section 8.1 with Natural Resources Agency meetings that have occurred thus far in the FEIS.	Natural Resources meetings that have occurred since the DEIS publication, including those listed in MDE Comment #155, have been updated in the FEIS. Refer to Chapter 8, Section 8.3.2.
155	73	DEIS Appendix P: Public Involvement and Agency Coordination Technical Report	Please add the following meetings to Table 8-1, Natural Resources Agency Consultation Meetings: Interagency Review Meeting on 11/15/2017 and Interagency Managers Meeting on 2/2/2018; Avoidance and Minimization Meeting field reviews on 6/3/2019, 7/16/2019, and 7/18/2019, Call with MDE and DNR on 9/10/2019; Recommended Preferred Alternative Meeting 1/17/2020; Cooperating Agency DEIS Comment Working Session on 2/27/2020 (in addition to 2/28/2020); Mitigation Site Discussion on 4/30/2020; and RFP-5 Henson Creek MLS Virtual Field Visit on 5/7/2020. Update the total number of agency consultation meetings in first paragraph of Section 8.1 accordingly.	See response to Comment #154.
156	App A	DEIS Appendix P: Public Involvement and Agency Coordination Technical Report	The pages related to the public opinion survey results in Appendix A of the Public Involvement Technical Report (PITR) have titles/headers that are not legible, please revise.	Comment noted.
157	5	DEIS Appendix Q: CMP	Update Section 2.1.1 to include details regarding the use of the required USACE Stream Calculator.	Details regarding the use of the USACE MSMF Stream Calculator have been included in the corresponding section of the FEIS.
158	5	DEIS Appendix Q: CMP	Please include ratio for vernal pool impacts of 3:1. Please elaborate on vernal pool impacts and mitigation.	The mitigation ratio for vernal pool impacts has been included in the FEIS, however, all vernal pool impacts have been avoided and vernal pool mitigation is not necessary.
159	6	DEIS Appendix Q: CMP	The impact totals shown in Table 2-1 do not match the JPA impacts. Please confirm which is accurate and revise accordingly.	See response to Comment #145.
160	7	DEIS Appendix Q: CMP	Section 2.1.3 states there are 13 mitigation sites. Please revise this to state there are 14 mitigation sites (or updated as appropriate as site searches continue).	Text was updated accordingly.
161	7	DEIS Appendix Q: CMP	Proposed wetland and stream credits do not match between Appendix Q and Appendix N (Draft CMP). Section 2.1.3 of Appendix Q proposes 61.94 acres of wetland mitigation credits and 74,085 linear feet of stream credits; however, the Draft CMP proposes 80.05 acres of wetland credit and 79,446 linear feet of stream credit. Confirm which is accurate and revise.	Text was updated accordingly.
162	6 and 7	DEIS Appendix Q: CMP	Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land. Can you also provide contact information for the NPS point of contact(s) involved in coordination? Will the proposed mitigation for impacts to NPS wetlands will be included in the Compensatory Mitigation Plan? We understand that a Wetland Statement of Findings (WSOF) will be developed once a Preferred Alternative has been identified. Please ensure that MDE and USACE are included in the coordination regarding NPS mitigation.	NPS mitigation will be above and beyond and separate from 404 mitigation for the MLS. A Wetland Statement of Findings was developed, including the mitigation identified to account for permanent impacts to NPS wetlands.

No.	Page	DEIS Section	Comment	Response
163	12	DEIS Appendix Q: CMP	Update Section 2.3 Rare Threatened and Endangered Species (RTEs) to include updated survey time frames/results.	This information has been included in the FEIS.
164	General	DEIS Appendix R: JPA	Please continue to address MDE's 45-day comments dated June 5, 2020.	This errata sheet/response to comments addresses the outstanding comments from MDE's 45-day comment letter.
165	General	Transit Coordination Report	Was the Transit Service Coordination Report used to evaluate the Indirect and Cumulative Effects (ICE), including increased parking demands? Please consider adding this report as an Appendix of the DEIS, and adding more information to the ICE Report and Traffic Section of the DEIS.	<p>Transit projects on the Counties' long range transportation plans are included in the MWCOG models that were used in the ICE Analysis to understand future population, housing, and employment trends.</p> <p>Transit elements were also considered by the Transit Work Group and the joint I-495/American Legion Bridge Transit/Transportation Demand Management (TDM) study by the Virginia Department of Trail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in reports. The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the P3 Program website (https://495-270-p3.com/transitbenefits/) and it is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the P3 Program. The I-495/ALB Transit/TDM Final Report and Plan was completed in March 2021 and was posted online. (http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf) It identified a series of potential investment packages to provide new mobility choices to service bi-state travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the American Legion Bridge (ALB) in fewer vehicles.</p> <p>Refer to FEIS Chapter 9, Section 3.3.D for a response to Analysis of Alternatives Retained for Detailed Study, including transit elements. Additionally, refer to FEIS Chapter 3, Section 3.1.4 for further transit-related elements of the Preferred Alternative.</p>
166	ES4 of the Executive Summary	Courtesy Comments	Page ES4 lists 19 technical reports; however, some of the documents listed are not technical reports. This could be misleading because it says the DEIS is supported by 19 technical reports (ex. JPA, purpose and need statement, ER mapping etc.)	Comment noted. 'Technical reports' was used as a general term for supporting documentation to the DEIS.
167	DEIS Section 4.21.2A (Page 4-125)	Courtesy Comments	The third paragraph contains the same language that was included in the last two sentences of the second paragraph. Can the third paragraph be removed and just add the figure reference to the paragraph above?	Text was updated accordingly.

No.	Page	DEIS Section	Comment	Response
168	DEIS Section 4.21.5 B (Page 4-137)	Courtesy Comments	Please update Table 4-40: Indirect Effects in the ICE Analysis Area to include language for how augmented culverts could indirectly affect drainage patterns and potential for flooding up or downstream of the culvert. Additionally, please include language about how noise barriers could effect or impact wetlands.	Consideration of indirect effects from augmented culverts has been added to the FEIS. Since publication of the DEIS, the locations of proposed and relocated sound barriers have been reviewed for constructability and in regard to wetlands and waterways impacts and LOD constraints. It is the intent of the project team to minimize impacts wherever possible. Consideration of regulated resources in the preliminary placement of the noise barriers has been factored into the revisions associated with the Preferred Alternative.
169	DEIS Section 4.21.5.B.f (Page 4-139)	Courtesy Comments	Include impacts within Environmental Justice blocks.	Natural resource impacts within EJ communities have been added to the FEIS.
170	Page 73 of App. P (Public Inv. & Agency Coord. Tech Report)	Courtesy Comments	For consistency, use the same acronym for Maryland Department of Natural Resources in Table 8-1, Natural Resource Agency Consultation Meetings (MDNR). There is a typo for MDNR in the first paragraph in Section 8.1. Recommend removing "WHS" from MDNR acronym since other MDNR departments were involved in these meetings.	Text was updated accordingly.
The following comments were included in a letter addressed to Lisa Choplin dated June 5, 2020.				
171	Section 10	Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland	The Nontidal Wetlands Division calls your attention to Section 10 of the Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland you submitted, which requests information regarding other approvals you need, or have been granted. If you have, or need other Department of the Environment approvals and did not already provide that information, please list which program(s) or division(s) you are/will be working with and provide a contact name (e.g. Dam Safety, Water Appropriations, PRD).	MDOT SHA recognizes that a number of permits and approvals from the Department will be needed for the MLS. The following are the permits we anticipate will be needed for this project, but we have not included contact names since we are not actively pursuing these permits at this time: Dam Safety approval, Water Appropriations permit, Code 378 Low Hazard Embankment Approval, and a General Permit for Discharges of Stormwater Associated with Construction Activity. Note that stormwater and sediment and erosion control approvals will be provided by MDOT SHA PRD under their delegated authority. The project will also require Maryland Reforestation Law approval from MDNR and we are coordinating with Marian Honeczy. The FEIS includes a list of all anticipated approvals.
172	General	Property Owner Coordination	Provide an excel spreadsheet that includes all of the final adjacent property owners to the roadway corridor and mitigation projects, including mailing addresses, that will be notified as part of this project's public notice. Please also include a section for elected officials and their addresses as well. Please ensure this list is updated based on any impact plate or limits of disturbance (LOD) changes that are made prior to public notice to ensure all necessary interested persons are notified.	An Excel spreadsheet including the final list of adjacent property owners to the roadway corridor and mitigation projects and elected officials, including mailing addresses, was sent by email to MDE and USACE on June 30, 2020, for the initial JPA. An updated Excel spreadsheet including the final list of adjacent property owners to the roadway corridor and mitigation projects and elected officials, including mailing addresses, was provided to the MDE and USACE with the revised JPA in April 2022.
173	General	Property Owner Coordination	We understand that the Certification of Notification will be sent out concurrently with the Public Hearing notice. Please provide the signed Certification of Notification form after the notice as been sent.	Notice of the application and the Public Hearing were sent via certified mail to adjacent property owners and elected officials for the initial JPA package. Certification of Notification to adjacent property owners will be provided for the revised JPA once delivery receipts are received.

No.	Page	DEIS Section	Comment	Response
174	General	General	As discussed, an Individual Water Quality Certificate (IWQC) and review under Maryland's Coastal Zone Management Plan is required for this project. The IWQC will likely be applied for at the time of the Final Environmental Impact Statement (FEIS) and a public notice with an opportunity for a public hearing will be required for the IWQC. Attached is a courtesy copy of a document that outlines the key elements currently required in a request for an IWQC (Attachment A). Please note, a second completed Billing Approval Form may be required for the IWQC notice.	Noted. We will continue to coordinate closely with MDE to meet all requirements for the IWQC.
175	General	General	Pre-application comments were provided on March 11, 2020. Several comments were not addressed in the Comment Response Errata that was provided with the JPA. A 'MDE Follow-up Comments' column has been added to the attached Comment Errata (Attachment B). Please respond accordingly.	The data revisions and impact plate/table revisions have been completed in the revised JPA package.
176	General	General	Provide an updated project schedule, including an anticipated timeline for plan submittal and construction.	<p>The near-term planning milestones are as follows:</p> <p>Agency Review of the Draft Revised JPA - December/January 2021</p> <p>Submit Final Revised JPA and Final 401 WQC Request - April 2022</p> <p>Publish FEIS – May 2022</p> <p>USACE and MDE Permits Issued – May 2023</p> <p>Final design and construction schedules have not yet been determined and will be provided as they are available.</p>
177	General	General	As previously discussed, avoidance and minimization will be required throughout the design process if the project moves forward. Impacts for the project are currently shown as permanent; however, the Design-Build Team would be required to continue to avoid and minimize impacts throughout design and construction. Permanent and temporary impacts will need to be quantified as design progresses, and evaluated again after construction is complete to quantify final avoidance and minimization efforts for the project. Will there be any incentives or penalties to encourage the Design-Build Contractors to continue to avoid and minimize impacts to regulated resources other than the requirements of the permit?	<p>Temporary and permanent impacts have been separated and provided for each environmental resource, see SDEIS Chapter 4; FEIS Chapter 5; and FEIS Appendix P, the JPA.</p> <p>The Developer will continue to look for opportunities to avoid and minimize impacts throughout the remainder of the design process to the greatest extent practicable. Monetary incentives have been added to the Developer's Technical Provisions to encourage further avoidance and minimization of impacts to wetlands, waterways, forest, and parkland.</p>
178	General	General	Please provide an update on the potential need for off-site stormwater management locations, and the stormwater strategy for the project.	The updated SWM needs have been discussed at length with agencies, including MDE, and a Compensatory Stormwater Management Plan are included in the FEIS, Appendix D, including the stormwater strategy.
179	General	Hydrology and Hydraulics (H&H)	H&H Analyses will be required for any new bridge or culvert construction and for any extension and/or out-of-kind replacement of any bridge or culvert. Sizing computations may also be required for riprap installation within intermittent and perennial streams in areas that are not included within an existing H&H analysis.	Noted. This will be provided during final design, prior to construction.

No.	Page	DEIS Section	Comment	Response
180	General	Hydrology and Hydraulics (H&H)	Provide a list of all the bridges/culverts, including stormwater outfalls, that are carrying either intermittent or perennial waters and will potentially be extended or replaced for this project. Provide the corresponding impact plate number and Stations. This list will likely be referenced as a Special Condition to ensure appropriate H&H review is conducted during the design-build process, as well as review for passage of aquatic life.	Please see Attachment A to the JPA for a list of bridges and culverts that are carrying intermittent or perennial waters and will potentially be extended for this project. A table of culverts greater than 150 feet long is included in the AMR.
181	General	Hydrology and Hydraulics (H&H)	Will the final roadway or mitigation designs result in increased risk of flooding on any adjacent properties during a 2-, 10- or 100- year event? If so, notification or permission from the adjacent property owners will likely be required.	Flooding risk will be evaluated during the final roadway and mitigation design. If risks are increased, notification and permission from adjacent property owners will be sought.
182	General	Hydrology and Hydraulics (H&H)	Ensure that passage of aquatic life is considered in the design of new, extended, and replaced culverts and bridges, and in the design of stream relocations.	Noted. While aquatic life passage will be considered in the design of new, extended, and replaced culverts and bridges and in design of stream relocations, many of the culverts within the LOD are already greater than 150-feet long and will not support aquatic passage. A list of all culverts greater than 150-feet long is included in the AMR, with an explanation of why they cannot be shortened, per the COMAR requirement.
183	General	MDE Impact Plates	Revise the impact plates to address the comments listed in the attached MDE Impact Plate Comments spreadsheet (Attachment C). Please note, a few additional comments have been incorporated into this spreadsheet since it was provided on May 21, 2020.	MDOT SHA has provided responses to all comments regarding the MDE Impact Plates in the 45-day letter response, both those provided on May 21, 2020, and those provided on June 5, 2020. Any comments not addressed for the 45-day letter have been addressed in this errata sheet.
184	General	MDE Impact Plates	Please confirm that no Wetlands of Special State Concern (WSSC) or associated 100-foot buffers will be impacted by the project. For example, the LOD extends beyond the limits of Impact Plate 24a to the northeast and a WSSC occurs to the north of the impact plate along I-95. Please confirm that there are no impacts to this WSSC or its 100-foot buffer. Additionally, please confirm that there are no impacts to the 100-foot buffer of the WSSC south of Impact Plate 22 and Mitigation Site AN-6/AN-7.	MDOT SHA reviewed all WSSCs and their 100-foot buffers and determined that no WSSCs or their 100-foot buffers are impacted by the Preferred Alternative - Phase 1 South LOD.
185	General	MDE Impact Plates	Best efforts should be made to avoid impacts to potential vernal pool wetlands listed in Comment 13.c.vii. below.	The MLS has avoided and minimized impacts to all wetlands to the greatest extent practicable, including vernal pools. All vernal pools within the corridor study boundary were reviewed with MDE in the field and will be avoided by the Preferred Alternative LOD. See response to comment #45.
186	General	Tier II	The Cover Letter states that a Tier II Checklist is provided; however, a Checklist is not provided in the attachments. Please provide a completed Antidegradation Applicant Review Checklist (Attachments D.i.).	The Preferred Alternative does not impact Tier II catchments.
187	General	Tier II	Update the 'Impact to Tier II Watersheds In or Near the MLS LOD' Table in the '1_CoverLetter_JPA_Tier II Table_BA Form_Vicinity Map (1)' PDF within the JPA package to include Impact Plate Numbers and impacts to wetlands within Tier II watersheds as well as streams. Can the Tier II boundary be added to the Impact Plates and Plans?	The Preferred Alternative does not impact Tier II catchments.

No.	Page	DEIS Section	Comment	Response
188	General	Tier II	Linear projects such as new major highways present additional water quality concerns. To avoid and minimize impacts, applicants are required to manage compaction, monitor background levels of basic water quality parameters, and possibly conduct biological monitoring using Maryland Biological Stream Survey (MBSS) protocols and analysis procedures. All required monitoring plans must be approved by MDE. It is strongly recommended that you coordinate as soon as possible with Angel Valdez of the Water and Science Administration's Environmental Assessment and Standards Program (EASP). She may be reached by phone at (410)-537-3606 or by email at angel.valdez@maryland.gov.	Noted. MDOT SHA coordinated with Angel Valdez and she determined that further coordination is not needed for Phase I South.
189	General	Tier II	Complete and return the 'Linear Project Review Form' (Attachment D.ii.), and acknowledge receipt of the 'Biological Data Quality Guidelines', and the 'Biological Monitoring Plan Template', (Attachments D.iii. and D.iv.).	MDOT SHA acknowledges receipt of the 'Biological Data Quality Guidelines' and the 'Biological Monitoring Plan Template,' (Attachments D.iii. and D.iv.). See response to Comment #188.
190	General	Tier II	This application has been forwarded to the Department's Environmental Assessment and Standards Program (EASP) and additional comments may be provided.	Noted. Additional comments were received. See response to Comment #188.
191	General	June 2, 2020 DNR Comment Letter	Has DNR approved the results of the rare, threatened, and endangered (RTE) species survey that was completed in July 2019?	DNR reviewed the results of the RTE plant survey that was completed in July 2019 and added additional species to be surveyed in spring/summer 2020. These surveys were completed and survey reports have been submitted to DNR. DNR had no further comments on the survey reports.
192	General	June 2, 2020 DNR Comment Letter	Please provide an update on the status of the Northern Long-Eared Bat (NLEB) and Indiana Bat (IB) survey, and the RTE survey for buttercup scorpionweed (Phacelia covillei) that was planned for Spring 2020.	MDOT SHA has conducted presence/absence acoustic surveys for NLEB and IB in accordance with USFWS guidelines in close coordination with USFWS and DNR. These surveys were completed in summer of 2020. Section 7 consultation has been completed with USFWS. RTE plant surveys were completed and survey reports have been submitted to DNR. No comments on the surveys were received from DNR.
193	General	June 2, 2020 DNR Comment Letter	MDOT SHA's response to DNR's Comment No. 30 in the Natural Resources Technical Report (NRTR) Agency Comment Errata states that vernal pools do not have different regulatory requirements than other wetlands. Please note that vernal pools have a higher mitigation ratio than other wetlands (3:1) and therefore need to be called out separately. Please provide a list of any wetlands, in addition to the wetlands listed in Comment 13.c.vii below, that function as vernal pools. Once review of these wetlands is complete, the Impact Plates and Draft Compensatory Mitigation Plan (CMP) may need to be revised to update impacts and mitigation ratio/totals.	See response to Comment #185.
194	General	May 29, 2020 USFWS Comment Letter	Please respond to the attached comment letter from USFWS dated May 29, 2020 (Attachment F).	The Tuscarora Creek (RFP-3) and AN-6 mitigation sites have been removed from the proposed MLS mitigation package.
195	General	General	Provide an update on coordination with Maryland-National Capital Parks and Planning (M-NCPPC) for the roadway and mitigation projects.	Regular coordination meetings were held with M-NCPPC to coordinate park mitigation, natural resources mitigation, and compensatory SWM mitigation. In addition, M-NCPPC is the owner of one of the mitigation sites currently included in the CMP and they were consulted on its mitigation design.
196	General	General	Provide an update on coordination with the appropriate Scenic and Wild River Advisory Board for the Potomac River.	MDOT SHA contacted DNR regarding Scenic and Wild River coordination. Andrew Mengel is the current DNR contact.

No.	Page	DEIS Section	Comment	Response
197	General	General	Provide an update on the status of the Programmatic Agreement between SHA and the Maryland Historical Trust (MHT).	MDOT SHA submitted the first draft of the Programmatic Agreement to consulting parties for review and comment in March 2021 and received comments in April 2021. MDOT SHA submitted the second draft of the Programmatic Agreement to consulting parties for review and comment on January 4, 2022, and incorporated consulting parties comments received. A final Programmatic Agreement is included in the FEIS Appendix J and will be signed prior to the Record of Decision.
198	General	AMR	Consider adding a clear description of how future avoidance and minimization will be promoted / required - Will the selected design/build team(s) be incentivized? How? One of the challenges of permitting accelerated contracting methods including design build is that there are often tradeoffs in efficiency (both cost and construction timing) for avoiding / minimizing impacts. Therefore, without specific commitments, determining adequacy of preliminary avoidance and minimization efforts is difficult.	Avoidance and minimization was conducted to the greatest extent practicable during the Planning Phase of design. The Developer will continue to look for opportunities to avoid and minimize impacts throughout the remainder of the design process to the greatest extent practicable. Monetary incentives have been added to the Developer's Technical Provisions to encourage further avoidance and minimization of impacts to wetlands, waterways, forest, and parkland.
199	General	AMR	The design plans clearly reflect an effort to avoid and minimize impacts to wetlands as reflected in the LOD at many locations being shaped to avoid them. The same effort must be applied to avoiding impacts to Maryland's regulated 25-foot or 100-foot wetland buffers throughout the project.	Avoidance and minimization for wetland buffers was conducted to the greatest extent practicable and is reported in the FEIS.
200	General	AMR	Section 1.1 Regulatory Context: Recommend revising to "MDE regulates... ..under various statutes including the Maryland Nontidal... ..Act, Waterway Construction Statutes, and section 401..."	This section was removed in the revised JPA package.
201	General	AMR	Section 1.2 The Build Alternatives: At end of first paragraph - please reword to "require" further avoidance and minimization rather than "consider".	This section was removed in the revised JPA package.
202	General	AMR	Section 3.2.1 Limits of Disturbance: First example paragraph includes the statement "In all but the unique cases discussed later in this report, proposed stormwater ponds will not permanently impact jurisdictional features". This seems to conflict with statements regarding SWM outfalls impacting streams (see 3.2.2).	This text was removed in the revised JPA package.
203	General	AMR	Section 3.2.2 Stormwater Management Assumptions: Second paragraph - "Impacts associated with stormwater outfalls will largely be determined to be temporary in the FEIS." - How was this determined? Many SWM outfalls result in permanent impacts to receiving waters due to stabilization measures.	This text was removed in the revised JPA package.
204	General	AMR	Section 3.3.4 Potomac River: 5th paragraph - "The proposed bridge would require special permit conditions indicating precise existing structural removal requirements and construction methods..." Please reword to have applicant take responsibility for proper techniques rather than the permitting agencies.	The text for the Potomac River has been rewritten in the revised JPA package based on the ALB Strike Team Report and the text noted in this comment was removed.
205	General	AMR	Section 3.3.4 Potomac River: Flexi Float Barges are referenced without explanation - please describe. Will this be the only method for construction allowed?	The text for the Potomac River has been rewritten in the revised JPA package based on the ALB Strike Team Report and the text noted in this comment was removed.
206	General	AMR	Section 3.3.7A Augmented / Auxiliary Culverts: MD 378 regulations are referred to without explanation - please define. Where installation of a parallel culvert is the only activity, the existing culverted stream may not need to be considered impacted.	This has been addressed in the revised JPA package.

No.	Page	DEIS Section	Comment	Response
207	General	AMR	Section 3.3.7C Additional Stream Crossings: Suggest adding narrative describing how existing structures were determined to not need replacement - has structural integrity been evaluated? Could any structures be replaced with bridges or improved culverts as mitigation? Should a statement be included that addresses possible need for replacement during later phases of construction if determined necessary?	This has been addressed in the revised JPA package.
208	General	AMR	Section 3.3.7C Additional Stream Crossings: Cabin John Creek - Can a commitment be made to enhance the existing stream conditions at this bridge crossing?	MDOT is proposing approximately 1,000 linear feet of stream stabilization along Cabin John Creek in the vicinity of this bridge crossing as part of the proposed mitigation for impacts to M-NCPPC parkland. Refer to FEIS Chapter 7 for further details on the stream stabilization.
209	General	AMR	Section 4.2.6 New/Augmented Culvert: Augmented culverts can be expected to increase erosive forces downstream due to higher flows (sometimes for great distances) - has placement of outfall protection and/or use of other measures (stream stabilization techniques) been included within LOD for sufficient distance to meet COMAR requirements?	MDOT SHA has reviewed all potential augmented culvert locations and determined additional LOD necessary to accommodate outfall protection and other measures to meet COMAR requirements at these locations.
210	General	AMR	Section 4.2.10 Hydrology Loss: Many wetlands listed in Table 3 indicate "Diversion of water by SWM vault". Please add narrative describing what this means.	The AMR included in the revised JPA package includes an impact narrative with justification of project impacts. Table 3 was removed from the report.
211	General	Proposed Mitigation	Provide a schedule on the progress at each mitigation site, including if the wetland delineation has been completed, design milestones, and draft schedule for construction/completion of each mitigation site. The wetland delineation at each site will likely change the proposed credit totals and should be completed as soon as possible to ensure there is enough mitigation in each watershed and no-net loss is met. Impact plates will be required for each mitigation site.	A draft design review schedule was provided to MDE and USACE on 2/18/21 for sites within the Catoctin watershed (Phase I South). Wetland delineations and agency field reviews have been completed for all of the sites. Impact plates were included with the Phase II Mitigation Plans and in the revised JPA. Construction schedules have not been determined at this time.
212	General	Proposed Mitigation: Phase I CMP	As previously discussed, to ensure no net loss of wetlands in each watershed, an additional 0.64 acres of wetland mitigation is required within the Patuxent Watershed, or impacts need to be reduced by 0.64 acres prior to permit issuance.	The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Patuxent Watershed is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
213	General	Proposed Mitigation: Phase I CMP	Update the CMP and its Appendices to include square feet in addition to acreage when referring to impacts and required mitigation totals.	Impacts and mitigation requirements were updated in the Final CMP to include square footages.
214	General	Proposed Mitigation: Phase I CMP	The range of permanent wetland impacts described in Section 3.3, Impact Summary, Section 5.2, Off-Site Mitigation Requirement and Table 5-2, Maryland Wetland Mitigation- DEIS Build Alternative Ranges, does not match the current MDE Impact Table attachment. Please update. Additionally, please ensure impact totals in the MDE Impact Tables match the Impact Totals in Appendix A, Appendix B, and Tables 1-1, 1-2, 5-2, 5-3 of the CMP after impacts have been finalized according to the attached P3 Impact Plate Comments.	The Draft CMP reflects the largest impact to wetlands and waterways, while the impact tables provide MDE jurisdictional impacts. The impacts were updated in the Final CMP and MDE Impact Table.

No.	Page	DEIS Section	Comment	Response
215	General	Proposed Mitigation: Phase I CMP	Separate out/exclude ephemeral impacts from MDE mitigation requirements within the CMP and Appendices A, B and D.	Ephemeral channels were removed from MDE mitigation requirements in the Final CMP.
216	General	Proposed Mitigation: Phase I CMP	Add a column to the Bridge and Culvert Impact Tables in Appendix B to include the corresponding impact plate numbers.	The Bridge and Culvert Impact Tables were removed.
217	General	Proposed Mitigation: Phase I CMP	Add a column to the MDE Impact Tables in the JPA to clarify which streams will be mitigated onsite versus offsite.	On-site stream mitigation is not proposed. Stream impacts and mitigation requirements were updated in the Final CMP according to the Maryland Stream Mitigation Framework (MSMF).
218	General	Proposed Mitigation: Phase I CMP	The following wetlands are potential vernal pools. Coordination with DNR is ongoing to confirm if these wetlands function as vernal pools. Please continue to avoid and minimize impacts to these wetlands as much as possible. If permanent impacts cannot be avoided, these wetlands will likely require wetland mitigation at a 3:1 mitigation ratio. Vernal pool creation to mitigation for vernal pool impacts is preferred. Please revise the mitigation plan accordingly. 1. 16L- small ponded area with frogs in late July - Plate 14 – 148 SF impacts and 3,627 SF Buffer impacts 2. 2LL- ponded area within wetland swale observed during delineation and potentially functions as a vernal pool, located on M-NCPPC property within Andrews Manor Park - Plate 54 - a small area of the wetland is within the LOD 3. 17O- surface water within wetland outside plot point – Plate 13 – not currently within LOD 4. 18K- potential vernal pool habitat – Plate 11 – not currently within LOD 5. 18L- series of vernal pools – Plate 12 – not currently within LOD 6. 1CCC- potential vernal pool along toe-of-slope within wetland located on M-NCPPC property within Henson Creek Stream Valley Park- Plate 57A – not currently within the LOD.	Noted. See response to Comment #185.
219	General	Proposed Mitigation: Phase I CMP	An updated list of wetlands and waterways impacts within Tier II watersheds has been requested in Comment No, 10.b. Equivalent mitigation within the impacted Tier II watersheds is required. If this is not possible, justification will be required. Likewise, please confirm that there is enough mitigation taking place in Use III and IV watershed, to mitigate for impacts within Use III and IV watersheds. This discussion is ongoing with the Mitigation and Technical Assistance Section.	Tier II, Use III, and Use IV watersheds will not be impacted by the Preferred Alternative.
220	General	Proposed Mitigation: Phase I CMP	If any existing wetlands are permanently impacted by any of the stream restoration/wetland mitigation projects, those wetland impacts will be required to be replaced in-kind onsite at one of the mitigation sites within the same watershed. If these wetland impacts cannot be replaced, additional public notice may be required.	Noted. Any permanent wetland impacts or proposed on-site mitigation are included in the Phase II Mitigation Plans.
221	General	Proposed Mitigation: Phase I CMP	The CMP proposes that impacts to streams within existing culverts and under existing bridges are not included in required stream mitigation totals. Please confirm that there will be no change to in-stream habitat beneath bridges in order to confirm that mitigation for streams beneath bridges is not required. If in-stream habitat beneath existing bridges will be altered (e.g. a natural channel bottom is proposed to be riprapped), mitigation may be required.	Stream impacts and mitigation were updated based on the USACE Stream Function Calculator (MSMF) in the Final CMP.

No.	Page	DEIS Section	Comment	Response
222	General	Proposed Mitigation: Phase I CMP	The Corps released the Stream Function Calculator for use on mitigation projects, which will be required for this project. Please update impacts and proposed mitigation accordingly.	See response to Comment #221.
223	General	Proposed Mitigation: Phase I CMP	Provide the criteria used for the stream functional assessments.	See response to Comment #221.
224	General	Proposed Mitigation: Phase I CMP	On page 11, Section 3.4, of the CMP regarding functional assessment, please clarify that only certain resources were reviewed, as not all functions and values assessments were approved.	Revised accordingly in the Final CMP.
225	General	Proposed Mitigation: Phase I CMP: Proposed On-Site Stream Mitigation	The CMP states that channels proposed for on-site stream mitigation include open channels that will remain in place, or be relocated within close proximity to their original location, and the channels that will remain in place are within the LOD where no roadway fill or infrastructure is proposed. Will the impacts to the channels that are proposed to 'remain in place' be temporary in nature (e.g. construction access crossing, stream diversion), or will these channels be restored or stabilized in some way? Please add a column to the tables in Appendix D to clarify what work is proposed to each channel. Additionally, add a column to include the corresponding impact plate number.	On-site stream mitigation is not proposed. Stream impacts and mitigation were updated based on the USACE Stream Function Calculator (MSMF) in the Final CMP.
226	General	Proposed Mitigation: Phase I CMP: Proposed On-Site Stream Mitigation	Please confirm that natural stream design is proposed for relocated channels where possible. If natural channel design is not proposed, additional mitigation may be required. Stream design plans and reports, including H&H analyses, will be required for every channel that is proposed to be relocated.	Natural channel design will be used where possible. It is noted that additional mitigation may be required if natural channel design is not used and stream design plans and reports, including H&H analyses, will be required for every channel that is proposed to be relocated. Additional mitigation will be determined through use of the Maryland Stream Mitigation Framework (MSMF).
227	General	Proposed Mitigation: Phase I CMP: Proposed On-Site Stream Mitigation	The CMP states "Impacts to these [on-site mitigation] channels may be designated as temporary during the final design stages." Please note, in order to ensure the appropriate amount of mitigation credit is available for this project, on-site mitigation impacts will likely be required to remain called out as permanent in the final design stages once the on-site mitigation totals have been approved. Additionally, if some of the on-site mitigation stream work is determined during the design process to be true permanent impacts, additional stream mitigation may be required.	See response to Comment #225.
228	General	Proposed Mitigation: Phase I CMP	Provide a copy of the latest version of MDOT SHA's "Grant of Mitigation Easement," which is the proposed site protection instrument for non-MNCPPC sites. For sites on MNCPPC and USDA property, some form of agreement must be put in place to allow access for monitoring and maintenance in perpetuity. Please provide a draft of this agreement with Prince Georges and Montgomery County Parks and USDA.	These documents were provided with the Phase II Mitigation Plans.
229	General	Proposed Mitigation: Phase I CMP	Please provide the full Phase I Mitigation Reports provided with the RFP that are referenced in Appendix L, Private Phase I Mitigation Design Plans, as available.	The Phase I mitigation reports are obsolete. The RFP mitigation site designers developed Phase II plans, which are included with the Final CMP.

No.	Page	DEIS Section	Comment	Response
230	General	Proposed Mitigation: Phase I CMP	Provide more information regarding the functions that each mitigation site will provide to replace lost functions and values of impacted wetlands and streams and the functional uplift provided, specifically for sites that are proposing wetland enhancement credit. Please provide information to justify the sustainability of proposed enhancement and preservation.	Information regarding the proposed mitigation site functions and values is provided in the Phase II Mitigation Plans. Lost functions and values due to the proposed roadway improvements are included in the Final CMP.
231	General	Proposed Mitigation: Phase I CMP	Provide photos of each proposed mitigation site within each site's Mitigation Plan.	Photos of each proposed mitigation site are included in the Phase II Mitigation Plans.
232	General	Proposed Mitigation: Phase I CMP	Ensure all utility easements are shown on each mitigation plan (can be either field surveyed or from approved as-builts). Diameter and elevations of the lines may also be required.	Utility easements are displayed on the design plans that are included with the Phase II Mitigation Plans.
233	General	Proposed Mitigation: Phase I CMP	Please address and respond to the attached Site Specific Mitigation Comments (Attachment G). Please note, discussions with the Mitigation and Technical Assistance Section are ongoing regarding site design and constraints, wetland and stream buffers, and credit ratio determinations.	Noted. The comment was provided to the mitigation site designers and was addressed in the Phase II Mitigation Plans.
234	General	Proposed Mitigation: Phase I CMP	Please note, wetland monitoring will be required for ten years with reports at years 1, 3, 5, 7, and 10. Stream restoration monitoring will be required for seven years, with reports at years 1, 3, 5, and 7. However, MDE has the right to extend monitoring if the performance standards are not met.	See response to Comment #233.
235	General	Proposed Mitigation: Phase I CMP	There may be excess wetland and stream mitigation beyond what is required to mitigate I-495/I-270 Managed Lanes Study Project impacts. Will this excess wetland and stream credit be proposed to be used as advance mitigation? If so, a list of projects with known impacts and an Advance Mitigation Plan needs to be provided prior to permit issuance (see Attachment H - Draft Advance Mitigation Plan guidance). If potential advance mitigation is not approved prior to permit issuance, any excess wetland and stream mitigation must be presented to the Interagency Review Team (IRT) as a proposed mitigation bank in order for credit to be potentially available for future use.	Advance mitigation for other projects was proposed in the Final CMP.

No.	Page	DEIS Section	Comment	Response
236	General	Proposed Mitigation: Phase I CMP	<p>Please ensure the following comments are addressed in the Phase II Mitigation Plan, some of which are reminders from the pre-application comments. Additionally, please incorporate all elements of the Phase II Wetland Mitigation Plan – Required Information Checklist (Attachment I) in the Phase II Mitigation Plan package.</p> <ol style="list-style-type: none"> 1. Ultimate credit ratios for fish passage as determined by the Fish Passage Work Group. 2. Clarification/justification for wetland enhancement credit ratios. 3. Additional wetland mitigation within the Patuxent watershed is needed. Please continue to locate potential mitigation sites and report on progress. 4. Evaluation/quantification of riparian buffer impacts at stream restoration sites. 5. Additional information regarding long-term management (e.g., hydrology, herbivory, invasive species control) maintenance, and adaptive management specific to each mitigation site. 6. Specify areas (including riparian buffers) that will be protected from development and other significant alteration, including timber removal. This is a particular concern on RFP-1, which is planned for extensive further development, but should be made clear for all sites. 7. Water budgets and monitoring data for each wetland mitigation site. 8. H&H Analyses for each stream restoration site. 	See response to Comment #233.
The following comments were included in a letter addressed to Caryn Brookman dated November 5, 2020.				
237	General	RE: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11), Culvert Augmentation and Permitting	<p>1) The Department, in conjunction with the U.S. Army Corps of Engineers, has reviewed the various relevant regulations related to processing a project of this magnitude including MDE's regulations, Executive Order (EO) 13807 Federal One Decision, and the Clean Water Act Section 401 Certification Final Rule, etc. Based on the review of its regulations and consideration of the EO and Section 401 of the Clean Water Act, the Department has determined that the current level of information provided at this time would not allow for permitting of the entire 48 mile corridor for the I-495 & I-270 Managed Lanes (MLS) Study. The following information is necessary to move forward with potential authorization of a corridor wide permit:</p> <ol style="list-style-type: none"> a) A reasonable estimate of the total project impacts including: <ol style="list-style-type: none"> i) An LOD in the location of impacts related to augmented culverts resulting from compliance with 378 requirements, which includes; <ol style="list-style-type: none"> (1) Determination of flood risks and channel stability under the Code of Maryland Regulations (COMAR) 26.17.04.06B(4), 26.17.04.06B(5), and 26.17.04.11B(6); (2) A list of adjacent property owners; (3) Applicable wetland delineations. ii) Locations of new off-site stormwater management, including; <ol style="list-style-type: none"> (1) A list of adjacent property owners; (2) Applicable wetland delineations. iii) Locations of new stream and wetland mitigation sites if permanent impacts will occur. iv) Locations of mitigation for the National Park Service if permanent impacts will occur. b) Additional information as requested in the Department's comment letter dated June 5, 2020. 	<p>1) The project is now seeking a permit for Phase I South, which includes impacts for augmented culverts and offsite SWM management.</p> <p>2) The 401 WQC Request will be for Phase I South.</p> <p>3) Augmented culvert areas that extend beyond the initial corridor study boundary were delineated with a 2-parameter approach, due to property access limitations. Full delineation of these areas will be completed prior to construction.</p> <p>4) Additionally, affected adjacent property owners have been identified and notified as part of the revised JPA process.</p>

No.	Page	DEIS Section	Comment	Response
238	General	RE: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11), Culvert Augmentation and Permitting	2) Issuing the Water Quality Certification (WQC) for the entire corridor is problematic based on the current amount of information available. For example, all of the same information required in #1 above is also included as necessary information for consideration of a WQC. Issuance of a Water Quality Certification for the entire 48-mile corridor would require that the project be able to demonstrate compliance with Maryland's water quality standards and the lack of sufficient information as contained in this letter minimally needs to be provided. As another example, a request for WQC shall include the location and frequency of discharge at a particular location or as may occur from the project. It would be difficult for a requester to be able to provide this information when the location and number of culvert augmentations is unknown. Furthermore, in consideration of the administrative procedures and timing requirements of applicable laws and regulations per Section 401 of the Clean Water Act, serious consideration should be taken regarding EO 13807 Section XIII regarding exceptions.	The 401 WQC will be issued for Phase I South. Detailed information about each culvert augmentation area is provided in FEIS Appendix N, AMR.
239	General	RE: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11), Culvert Augmentation and Permitting	3) Additional information is required regarding the use of surrogate wetland and stream delineation information. Please describe the type and source of information that would be used, and where surrogate information would be applied.	No surrogate information is needed to complete the Phase I South delineation.
240	General	RE: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11), Culvert Augmentation and Permitting	an additional MDE public notice for the Joint Permit Application will likely be required to include property owners adjacent to impacts related to augmented culverts, new off-site stormwater locations, and new off-site stream and wetland mitigation locations if permanent impacts are proposed. We look forward to continued coordination regarding the timeline of the project.	Noted. The project team coordinated closely with MDE during the Planning process and has notified adjacent property owners; determined offsite SWM locations; and identified off-site stream and wetland mitigation impacts.

MARYLAND DEPARTMENT OF THE ENVIRONMENT

From: Amanda Sigillito -MDE- <amanda.sigillito@maryland.gov>
Sent: Monday, November 9, 2020 3:51 PM
To: Lisa Choplin <LChoplin@mdot.maryland.gov>
Cc: Caryn Brookman (Consultant) <CBrookman.consultant@mdot.maryland.gov>; Heather Nelson <hnelson@maryland.gov>; William Seiger <william.seiger@maryland.gov>; Jack Dinne <john.j.dinne@nab02.usace.army.mil>; Joseph NAB02 DaVia <joseph.davia@usace.army.mil>; Kelly Neff -MDE- <kelly.neff@maryland.gov>; Steve Hurt -MDE- <steve.hurt1@maryland.gov>; Emily Dolbin -MDE- <emily.dolbin@maryland.gov>
Subject: MDE: Comments on the MLS DEIS

Dear Ms. Choplin:

Attached are the Maryland Department of the Environment's (Department) comments on the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the I-495/I-270 Managed Lane Study. The Department's comments on the *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* were previously submitted in June 2020, but are included as Attachment B to the DEIS comments.

Should you have any questions or require additional information, please do not hesitate to contact me at one of the numbers listed below or via email.

Sincerely,

Amanda Sigillito, Chief
Nontidal Wetlands Division
Due to the COVID-19 virus and the need for safety precautions, many state employees are working remotely.



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Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

November 9, 2020

Lisa B. Choplin, DBIA
Director, I-495 & I-270 P3 Office
Maryland Department of Transportation State Highway Administration
I-495 & I-270 P3 Office
707 North Calvert Street
Mail Stop P-601
Baltimore, MD 21201

Re: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11),
Draft Environmental Impact Statement and Draft Section 4(f) Evaluation

Dear Ms. Choplin:


The Maryland Department of the Environment, Wetlands and Waterways Program ("the Program") has reviewed the *I-495 & I-270 Managed Lanes Study, Draft Environmental Impact Statement and Draft Section 4(f) Evaluation* (DEIS) dated June 2020. Please find the Program's comments on the DEIS in Attachment A. The Joint Permit Application (JPA) for the project is an attachment to the DEIS; however, separate comments related to the JPA were sent by the Program on June 5, 2020 (Attachment B) and coordination is ongoing.

Also attached is a summary of public comments received during the joint public hearings (Attachment C). The Program requests point-by-point responses for inclusion in the public record. Significant public comments should also be addressed within the Final Environmental Impact Statement (FEIS). Of particular note, numerous comments were received addressing the long term changes to traffic that could result from changes in work practices including increased working from home and flexible scheduling. Please also specifically address potential cost and environmental impacts associated with utility relocations, particularly WSSC pipelines. Additional public comments may come in through the mail the week following the end of the public notice period and may be forwarded for inclusion.

On November 5th, 2020, the Program sent a letter regarding concerns about the timing and current level of information provided in the Application, particularly as it relates to Water Quality Certification requirements (Attachment D). Please review the letter as it relates to the FEIS, and respond accordingly.

If you need any further information or assistance, please do not hesitate to contact Steve Hurt by telephone at (410) 336-1528 or by email at Steve.Hurt1@maryland.gov, or Emily Dolbin by telephone at (667) 219-3279 or by email at Emily.Dolbin@maryland.gov.

Sincerely,


Amanda Sigillito, Chief
Nontidal Wetlands Division
Wetlands and Waterways Program

Ms. Lisa B Choplin
Page 2

Attachments: Attachment A – MDE’s DEIS Comments
Attachment B – MDE Comments on the JPA date June 5, 2020 (letter only)
Attachment C - Summary of Public Comments
Attachment D - Culvert Augmentation and Permitting letter dated November 5, 2020

Cc: Caryn Brookman, MDOT SHA
Jack Dinne, U.S. Army Corps of Engineers
Heather Nelson, MDE
William Seiger, MDE
Kelly Neff, MDE
Steve Hurt, MDE
Emily Dolbin, MDE

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Attachment A - MDE's DEIS Comments - November 9, 2020			
Section	Title	Page Number	Final Comments
General Comments		N/A	Please note, some comments provided in the Joint Permit Application (JPA) Day 45 Comment Letter dated June 5, 2020, including comments related to the Draft Environmental Impact Statement (DEIS), are still outstanding/relevant and will need to be addressed in the Final Environmental Impact Statement (FEIS) and the JPA (Attachment A).
			Please ensure that the FEIS is updated as appropriate in sections where information and coordination is listed in the DEIS as pending or ongoing.
			Update all relevant sections of the FEIS and attachments to discuss the effect that COVID-19 has on the study including purpose and need of the project. Please include details regarding revised traffic studies, and the affect of more businesses adopting permanent teleworking arrangements.
			Provide more details on constructability throughout the FEIS and relevant attachments.
			Ensure all impact totals and required mitigation totals match throughout the FEIS and attachments.
			Please address the effects that will result from needed utility relocation throughout the FEIS and attachments.
			Additional information is requested regarding how the project will be phased, the timing of those phases, and how that relates to the current JPA.
			Please add additional information regarding utility relocations throughout the FEIS, particularly related to impacts to resources and costs associated with relocations, including how the relocations are paid for in relation to the rest of the project costs.
			Details regarding the Water Quality Certification (WQC) process for this project are ongoing. Please consider updating information regarding the WQC process as it becomes available. Also see attachment D, a letter from MDE regarding the timing and information required for issuance of a WQC for the project.
			Discussions regarding the wetland and stream mitigation for the project are ongoing. Please continue to address mitigation comments/concerns through the applicable comments below, and the JPA review process.
Executive Summary (ES)		General	Please include more details in the FEIS regarding traffic studies and how COVID-19 plays a part in traffic patterns as the studies progress. Additionally, does COVID-19 change the need to evaluate the MD 200 Diversion Alternative?
		ES-5	Under the definition of Limits of Disturbance (LOD) on Page ES-5, please consider adding language regarding a continued commitment to avoidance and minimization.
		ES-6	On ES-6, define Notice of Availability.
		ES-17	On ES-17, please add a note under 'Table ES-2: Summary of Effects Comparison of the Alternatives' that the impacts listed do not include impacts at the proposed mitigation sites.
		ES-20	Consider relocating the P3 definition on ES-20 towards the beginning of the document where P3 is first mentioned.
DEIS Section 2	Alternatives Development	2-18	This page states, "In addition to failing to adequately meet the Study's Purpose and Need, Alternative 5 would not be considered a practicable alternative in the context of the US Army Corps of Engineers' permitting requirements." Has the USACE made an official determination that Alternative 5 would not meet their permitting requirements? If so, please provide a reference and add the reference to the Agency Correspondence Appendix. If not, this statement should be removed.
		2-39	Consider listing noise barriers under the 'Elements Included in the Constructability Analysis' Section (2.7.3.b.).
		2-40	The highlighted box says that the American Legion Bridge will remain in the same location; however, is that still true with new information regarding the importance of Plummerville Island?
		2-44	Section 2.7.5.d. states that dynamic tolling will minimize environmental impacts. Please provide a more detailed explanation regarding how dynamic tolling minimizes environmental impacts, including which environmental impacts are minimized.
		2-47	Under Section 2.7.7, would the location of the pedestrian/bicycle bridge change due to the Plummerville Island concerns? The path is currently planned for the south side of the bridge.
DEIS Section 3	Transportation and Traffic	N/A	In Section 3, explain why Active Traffic Management (ATM) is no longer included, as it was originally included in the Administrative DEIS.
DEIS Section 4.2	Demographics	4-10	In the first paragraph of Section 4.2.3, please explain how "negligible impact" was determined. Additionally, please expand upon/summarize what the impacts are and how they might differ between the Build Alternatives.
		4-10	In the second paragraph of Section 4.2.3, please provide the percentage of residential relocations to justify use of the word "minimal" and for general understanding.
DEIS Section 4.3	Communities and Community Facilities	4-14, 4-15	Please ensure 'Acreage Range of Property Acquisitions' on Table 4-3 of this section and Table 3-9 in Appendix E match.
DEIS Section 4.5	Property Acquisitions and Relocations	4-23	Section 4.5.3 states full numbers of relocations (25 or 34 depending on Alternative), yet the bulleted section gives ranges of relocations (15-20 for Forest Glen and 11 to 14 for Silver Spring). Please clarify why a range is given or state full numbers based on the Managed Lanes Study's (MLS) definition of when a full property acquisition will take place.

DEIS Section 4.7	Historic Architectural and Archaeological Resources	General	Please see comments regarding historic resources in <i>Attachment B - Summary of Public Comments</i> , and update Section 4.7 accordingly.
DEIS Section 4.9	Noise	General	Please add language to this section regarding the avoidance and consideration of wetlands and waterways as a factor in determining the location and feasibility of noise barriers.
DEIS Section 4.12	Waters of the US and Waters of the State, including Wetlands	4-78	In Section 4.12.1, consider rephrasing the following sentence, "According to COMAR 26.23.01.04, nontidal wetland buffer shall be expanded to 100 feet for nontidal Wetlands of Special State concern, nontidal wetlands with adjacent areas containing steep slopes or highly erodible soils (soils with an erodibility factor greater than 0.35), and outstanding national resource waters." to include the full definition of expanded buffers, which includes slopes immediately adjacent to the nontidal wetlands in excess of 15 percent, or remove the definition of highly erodible soils. If choosing to list one of those definitions, please define both, or neither, to avoid bias in paraphrasing the COMAR definition. Also capitalize "Outstanding National Resource Waters (ONRW)."
		4-78	In Section 4.12.1, nontidal wetlands regulated by MDE are not defined. Please consider adding a reference, or definition in this section.
		4-78	In Section 4.12.1, update "Section 401 Water Quality Certificate," to "Section 401 Water Quality Certification."
		4-79	Section 4.12.1 references a letter from the US Coast Guard dated September 19, 2019, stating that a bridge permit would not be required under Section 10 for the American Legion Bridge; however the letter is missing from the referenced appendix. Please send a copy of this correspondence to support the JPA and attach the letter to the Agency Correspondence Appendix of the FEIS.
		4-79	In Section 4.12.1, please add the bold sections to the following sentence, "The study team, including roadway engineers, stormwater engineers, structural engineers, construction engineers, environmental planners, and environmental scientists, worked in close coordination with the regulatory agencies, USACE, MDE, and other resource agencies as needed , for nearly two years to review delineated features and coordination avoidance and minimization of impacts to wetlands and waterways throughout the study corridor to the greatest extent practicable at this stage in design. Avoidance and minimization of impacts to wetlands and waterways shall continue throughout design. " Also, this sentence is the introduction to wetlands and waterways methodology section. Consider moving this sentence to Section 4.12.4.
		4-80	Please update Table 1 in the Wetland Delineation Memo to be consistent with Table 4-19 in this section. Please ensure future revisions of this table are consistent across the FEIS, NRTD and Wetland Delineation Memo (or amendments to these documents).
		4-81	Please ensure the MDE Impact tables in future JPA submissions are consistent with the numbers in Table 4-20 of this section.
		4-82	Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land. Will the proposed mitigation for impacts to NPS wetlands will be included in the Compensatory Mitigation Plan? We understand that a Wetland Statement of Findings (WSOF) will be developed once a Preferred Alternative has been identified. Please ensure that MDE and USACE are included in the coordination regarding NPS mitigation, and clearly define if the NPS mitigation is part of, or in addition to, mitigation required by MDE and the USACE, and update the JPA as necessary.
DEIS Section 4.13	Watersheds and Surface Water Quality	4-84, 4-86	In Section 4.12.4, MDE regulates all floodplains, not just the FEMA floodplain. Please remove "FEMA" from the first sentence of the first full paragraph on page 4-84. Additionally, remove "FEMA" from 100-year floodplain description on page 4-86, or add a caveat that additional floodplain impacts will be avoided and minimized as the project progresses.
		4-87	Based on recent discussions with SHA, stormwater management locations will be added to the JPA. Please update Section 4.13 Watershed and Surface Water Quality to discuss how proposed stormwater management will mitigate water quality impacts.
DEIS Section 4.15	Floodplains	4-88	Please clarify if the Potomac and Patuxent Scenic and Wild Rivers Program Advisory Boards are still active and providing input on the project.
		4-95	Floodplain is misspelled in the second paragraph after the COMAR reference.
		4-97	The first sentence on this page states, "...by adjusting stormwater structures to ensure that no property damage or impacts to other natural resources result." This statement seems to make a commitment that is not consistent with the current JPA submittal. Please rephrase, or explain in more detail.
		4-97	Following the discussion of FEMA floodplains, Section 4.15.4 notes that "Stormwater management would be provided, and all hydraulic..." however, stormwater management is not a typical approach to addressing FEMA issues of increased fill in the floodplain or raised water surface elevations (such management would need to occur upstream of the floodplain to decrease hydrology and offset the hydraulic changes associated with floodplain fill, grading and structural changes). Consider rephrasing this section for clarity. Also, consider clarifying the following phrase "...hydraulic structures would be designed to accommodate flood volumes without..." Typically structures (culverts etc.) are designed to accommodate flood flow, not volume, unless the implications is that the design based on flow is intended to ultimately reduce the volume of impoundment upstream of the structure at peak flow. If so, please rephrase for clarity.

DEIS Section 4.17	Terrestrial Wildlife	4-103	Section 4.17 mentions vernal pool habitat under Affected Environment (4.17.2), but not under Environmental Consequences (4.17.3) or Mitigation (4.17.4). Consider discussing vernal pools under 4.17.3 and referencing the 3:1 mitigation ratio under 4.17.4.
		4-103	In Section 4.17.2, please reference the number of vernal pools found within the study area in this section of the report. It currently states there are no mapped vernal pools, which could lead a reader to think there are no vernal pools within the study area. It has recently been determined that one vernal pool is confirmed within the project LOD and the remainder will be confirmed in spring 2021, please clarify this section.
DEIS Section 4.18	Aquatic Biota	4-106	Table 4-28: There are several occurrences where multiple years of sampling occurred and the range is represented for example as "poor - fair/good" instead of "poor - good." This can be a misleading representation of the watershed conditions where "fair/good" looks like a hybrid ranking, but is actually two separate rankings. Consider revising.
		4-107	Table 4-28 states that Fairfax County Middle Potomac Watershed Benthic Invertebrates (IBI Score Range) are rated Very Poor; however, they are rated Good in NRTR. Confirm which is correct and revise accordingly.
DEIS Section 4.19	RTEs	4-110	Correct the spelling of anadromous (it is currently spelled anadrous).
		4-113, 4-117	Please include an update regarding the outcome of the acoustic bat surveys in the FEIS.
		4-115, 4-117	Include an update on the status of the RTE surveys in the FEIS.
		4-116	Can the species listed in Table 4-32 be separated out by state instead of combined?
DEIS Section 4.21	Environmental Justice and Title VI Compliance	4-122, 4-143	In Sections 4.21.2 and 4.21.5C, consider clarifying the following statement, "A determination of whether disproportionately high and adverse effects would occur under the Preferred Alternative to EJ populations." Is this only for the preferred alternative?
		4-142	In Table 4-38: <i>Potential for Adverse Effects to Environmental Resources within EJ Populations</i> , please ensure that number of relocations under each alternative is correct, and confirm if <i>Impacted Community Properties within EJ Populations</i> includes impacted parks.
DEIS Section 4.22	Indirect and Cumulative Effects (ICE)	General	Please update the ICE to include potential long-lasting changes in work patterns due to COVID-19.
		4-147	Please add Maryland Department of Natural Resources as a data source for Forests listed in Table 4-39: <i>ICE Analysis Data Sources and Methodology</i> .
		4-148	Section 4.22.2 states that there are 1,061 stream segments within the corridor study boundary; however, the NRTR and DEIS state show 1,075 stream segments. Please confirm which is accurate and revise accordingly.
		4-154	Please update Table 4-40: Indirect Effects in the ICE Analysis Area to include language for how augmented culverts could indirectly affect drainage patterns and potential for flooding up or downstream of the culvert. Additionally, please include language about how noise barriers could affect or impact wetlands.
DEIS Section 4.23	Consequences of Construction	4-157	In the last sentence of the first paragraph, please add natural resources to the list of "impacts associated with construction that will be further evaluated for the Preferred Alternative". Additionally, please add a paragraph for natural resources within the body of section 4.23.
DEIS Section 4.24	Commitment of Resources	4-160, 4-161	Please add additional language in Section 4.24.2 (Short-Term Effects/Long-Term Effects) regarding the short and long-term effects on natural resources.
DEIS Section 5	Section 4(f) Evaluation	5-2	Consider briefly summarizing the exceptions to the requirement for Section 4(f) approval in Section 5.2.1 instead of only referencing the Appendix where the exceptions are defined.
		5-3	Section 5.5 - Section 4(f) Properties of the DEIS says there are 111 properties inventoried; however, there appear to be a total of 116 properties inventoried (48 properties avoided, 36 de minimis finding, 22 requiring Individual Evaluation, and ten 4(f) exempt). Please change 111 to 116 and update Figures 5-1 to 5-3 to show the missing properties, or explain the discrepancies. Additionally, change 43 to 48 when referring to avoided properties. According to Table 5-1, there are 48 properties that would be avoided. Please update as appropriate.
DEIS Section 7	Public Involvement and Agency Coordination	7-6	Footnote 5 on page 7-6 refers to FEMA 100-year floodplain. Please remove the reference to FEMA, as MDE regulates all 100-year nontidal floodplains.
		7-13	Section 7.4 states that Rock Creek will be avoided from relocation. Impact Plates 11A and 11B (Station 485+00 to 492+00) show that I-495 is proposed quite close to Rock Creek and a retaining wall does not appear to be proposed. Please clarify the work proposed in this location and ensure constructability is appropriate.
	Alternatives Technical Report	71	In Section 5.3 - Interchanges, the final paragraph indicates that interchange locations could be changed by the developers. How would this be handled through NEPA and Permitting?
		117	Section D - Effects of Screened Alternatives states that all alternatives use the same typical section for the American Legion Bridge. Why would the single lane alternatives include a wider bridge section than necessary?

DEIS Appendix B	Appendix A: MD 200 Diversion Alternative Analysis Results Paper	147	Table 7-1: It is not clear why Alternative 5 - not retained, is included. It seems only to be included to make Alt. 9M seem like not the least impactful.
		148	Table 8-1: It is not clear why Alternative 5 - not retained, is included. It seems only to be included to make Alt. 9M seem like not the least expensive.
		General	Should the MD 200 Diversion Alternative be reanalyzed due to COVID-19?
		General	It is not explained why the two lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs seems quite congested and would result in minimal impacts to parkland or residences. Improvement of the East Spur interchange alignment and function might result in significant improvement to traffic functions.
		7	In Section B, TSM/TDM, the Interchange Reconfigurations bullet indicates that these were not considered due to potential environmental and property impacts, despite these impacts being included in the other retained alternatives. Could interchange improvements result in improved operations through the existing I-495 top section with relatively minor impacts?
		12	In the final bullet of Section 2 -Travel Forecasting, it is not clear why a comparison with the no-build alternative is relevant.
		20	In Section 6 - Effect on Local Roadway Network, it is not clear why removal of widening along I-95 is discussed. Other screened alternatives do not discuss removal of portions of the alternative.
		28	The bottom paragraph of Section VI - Conclusions states additional environmental impacts would be associated with improvements to I-95, without indicating how minor these impacts would be or comparing them to the reductions in impacts to other resources associated with this alternative.
	Appendix B: Alt 9M	General	It is not explained why the two lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs seems quite congested and would result in minimal impacts to parkland or residences. Improvement of the East Spur interchange alignment and function might result in significant improvement to traffic functions.
		5	The final paragraph of Section A- Existing Congestion on Top Side of I-495 addresses the proposed system providing cohesive and reliable traffic relief, which does not belong in a discussion of the existing conditions and indicates a presumption prior to the analysis.
		19	Section III - Environmental compares impacts to Alternative 5 which was not carried forward. Suggest eliminating these references and only compare impacts to the other retained alternatives.
		23	Paragraph 3 of Section V - Conclusions states "there are relatively small differences between Alternatives 5 and 9...", despite previously stating that up to nine residential displacements would be avoided, 2.1 Acres of 4(f) impacts would be reduced, and other natural environmental impacts would also be reduced. Suggest rewording to avoid the prejudicial language.
DEIS Appendix C	Traffic Technical Report	General	The study does not adequately address the phasing of construction for the different proposed contract sections nor the affect should any phase not be completed. Consider providing a narrative overview of how traffic operations will be affected during construction of any phase as well as if only one or more phase is completed.
		5	Section H - Consideration of Alternative 9: Since Alternative 9M has been studied to the same level of detail as the screened alternatives, it would be appropriate to include within this report rather than as a stand alone report in order to better compare among the screened alternatives.
		154	The first bullet under Section 7 - Next Steps indicates that additional direct access locations beyond the ones stated previously will be considered. How would these locations be included in the NEPA and permitting process?
DEIS Appendix D	Natural Resource Mapping	General	Please ensure the LOD accounts for room to construct noise barriers. Many noise barriers shown on the resource mapping are right up against or slightly outside the LOD.
		Multiple	Placement of noise barriers should also avoid and minimize impacts to regulated resources. Please make an effort to minimize impacts from potential new, replaced, or reconstructed noise barriers to the resources provided in Table 1 attached.
		Multiple	Labels are missing from some of the regulated features. Please ensure labels are added to the resources listed in Table 2.
		Map 104	Please show the following Forest Conservation Act Easements, as shown on Appendix D, on the NRI Mapping of the Wetland Delineation Report: 1. Map 104 shows an easement south of Wooten Pkwy and west of I-270. Please show this on Map 116 of the NRI mapping. 2. Map 105 shows an easement west of Falls Road and east of I-270. Please show this on Map 117 and 118 of the NRI mapping. 3. Map 106 shows an easement west of Research Blvd and east of I-270. Please show this on Map 121 of the NRI mapping. 4. Map 107 shows an easement south of Guide Drive and east of I-270. Please show this on Map 122 of the NRI mapping.
		Map 105	
		Map 106	
DEIS Appendix E	Community Effects Assessment/Environmental Justice Technical Report	Map 107	
		6	Since Alternative 9M is advanced for study in the DEIS, consider including specific impacts associated with Alternative 9M in the Community Effects Assessment and Environmental Justice Analysis.
		49	In Section 3.3.2.B - Screened Alternatives, please provide quantitative data or a reference when referring to tax revenues lost and gained.
		91	Section 4.3.4, please ensure the color descriptions within the second paragraph match the color coding in Figure 4-1.
		63, 103	Due to public comments received regarding potential impacts to schools, in Sections 3.5.2.Bb and 4.5.2, please consider adding information regarding the impacted schools.
		106	In Section 4.5.2.F, please include impact numbers within EJ communities.

		110	In Sections 4.21.2 and 4.21.5C, consider clarifying the following statement, "A determination of whether disproportionately high and adverse effects would occur under the Preferred Alternative to EJ populations." Is this only for the preferred alternative?
DEIS Appendix J	Noise Analysis Technical Report	General	Have locations of proposed and relocated sound barriers been reviewed for constructability with regard to wetlands and waterways impacts? In some areas where barriers are proposed, the LOD is very tight (for example along Rock Creek). In other areas, barriers are shown crossing bridges over waters. Do the proposed bridge widths include allowance for the barriers (for example over Northwest Branch)?
		58	In Section 4.2.2, please add language to consider natural resources as a factor used to determine 'reasonableness' when designing noise walls.
DEIS Appendix K	Hazardous Materials Technical Report	General	Address any potential hazardous materials contamination at the mitigation sites and off-site stormwater management sites.
			Maps 5 and 24, railroad tracks run along sites 41, 42, and 43 . Please consider increasing the priority levels of these sites and determine if further investigation is needed.
	Appendix B: 700-foot Scale Sites of Concern Maps		Map 6, railroad tracks run along the east perimeter of site 53. Please consider increasing the priority levels at this site and determine if further investigation is needed.
			Map 7, Silgo Creek runs along the western side of site 78. Please consider increasing the priority level at this site and determine if further investigation is needed.
			The Priority Ranking Table mentions possible dumping at site 117, located on Map 9. The site is also located along Paint Branch. Consider further investigation into this site due to possible dumping.
			Map 14, for site 176 consider mentioning railroad that runs along the site in the Priority Ranking Table and determine if further investigation is needed.
DEIS Appendix L	Natural Resources Technical Report	N/A	Please refer to Comment No. 82 of the Administrative DEIS Comment Errata Response dated December 13, 2019. Waterway discrepancies have not been addressed. Waterway 8W is classified as perennial on the datasheet, and intermittent in the Wetland Delineation Memo table and NRTR Impact Tables. Waterway 27H is classified as perennial in the NRTR Impact Tables, and intermittent on the datasheet and Wetland Delineation Memo. Please update accordingly.
	Appendix A: Impact Tables	General	Please explain why Alternative 9M is not included on any impact table. Additionally, why is Alternative 13C not included on the waterways impact tables? Consider adding these alternatives to their respective tables.
		32	The impact numbers from 23K_D do not match the impact numbers on the MDE impacts table provided with the JPA for Alternatives 8, 9 and 13B. Please clarify which impact numbers are correct and revise accordingly.
		35	Please explain the discrepancies between summary of impacts in Table 2.3-2 and impacts presented in the JPA.
	Appendix F: Delineated Features Maps	Map 6	Include the culvert for 22P to the Delineated Features Map.
		Map 10	Please revise resource 22Z_B to 22Z_C as shown in the MDE Impact Plates. Please update this resource on the Wetland Delineation Memo, Delineated Features Mapbook as well.
		Map 15	Please show the culvert for 20C (also requested in MDE's 45 day comment letter)
		Map 20	Revise to show the PEM wetland that was added on the left bank of 19T. This feature has not been added to the Delineated Features Map, please revise. (also requested in MDE's 45 day comment letter)
		Map 37	Show 12EE through the culvert and update the map to show the resource on both sides of I-495 (also an MDE 45 day comment).
		Map 38	Please show 12S through the culvert and update the map to show the resource on both sides of I-495. (also requested in MDE's 45 day comment letter)
		Map 41	Please label resource 12WWW_C. Please label this feature on the Wetland Delineation Memo, Delineated Features Mapbook as well.
		Map 52	Please show and label resources 10S_C and 10BB_C. Please label these features on the Wetland Delineation Memo, Delineated Features Mapbook as well.
		Maps 52 and 99	1SS_C (Map 99) and 10Q_C (Map 52) are shown in the Delineated Features Table but not labeled on the Delineated Features Map. Please add these features to the Delineated Features Map.
		Map 54	Please show and label 10J_C (Map 54) on the Delineated Features Maps
		Map 62	During the site visit, it was determined that 9B (Map 62) was not a wetland. Please remove it from the wetland delineation
		Map 68	Please show and label resource 7S_C (Map 68) on the Delineated Features Maps.
		Map 73	Please show the approximate location of the pipe that 7G_2 flows into on Map 73 (also requested in MDE's 45 day comment letter).
		Map 99	Please change the eastern portion of 1T (Map 99) to PFO and the western portion (dominated by Phragmites australis) to PEM.
		Map 100	Please extend 1WW east, along the fence line and connect it with 1XX on Map 100 (also requested in MDE's 45 day comment letter).
		Map 119	Please show and label resource 26B_C1 (Map 119) on the Delineated Features Map.
	Appendix G: Field Datasheets	General	Please provide datasheets for the additional resources found during the agency field reviews.

		Appendix H: Photo Documentation	Photos 1: 238 and 239	Photo captions for Water 5BB state that it is an ephemeral stream but the datasheet (PDF page 772) indicates that it is an intermittent stream. Please clarify which stream classification is correct.
			Photos 2: 474	The photo caption states that 11B is an intermittent stream but the datasheet (PDF Page 1525) states that it is a PFO wetland. Please clarify which resource is 11B
			Photos 2: 514	A datasheet for 12JJJ could not be located. Could the datasheet (PDF Page 1700) labeled 12GGGG be mislabeled?
			Photos 2: 543	The datasheet (PDF Page 1803) show 12YYY as both perennial and intermittent stream but the photo log only has the perennial portion showing. Does this resource transition from perennial to intermittent (or vice versa)? If so, update to include a picture of the intermittent portion of this resource.
			Photos 3: 716 and 717	The photo caption states that 27H is perennial stream but the datasheet states it is intermittent (PDF page 2376). Please clarify which class the stream is, and update accordingly.
		Appendix J: Wetland Functions and Values Table	General	Functions and Values Sheet for 2G shows both yes and no checked for sediment/toxicant retention. Confirm which is accurate and revise.
				Functions and Values Sheet for 2QQQ checks sediment/toxicant retention but the Appendix J table shows a check for fish and shellfish habitat. Confirm which is accurate and revise.
				There is a Functions and Values Sheet for 8KK but it is not in the table in Appendix J. Update the table to include 8KK.
				Functions and Values Sheet for 8Q shows both yes and no checked for groundwater recharge/discharge. Confirm which is accurate and revise.
		Appendix N: Agency Correspondence	General	Please update Appendix N: Agency Coordination to include the letter from the US Coast Guard dated September, 19 2019.
	DEIS Appendix M	AMR	General	Please add a section discussing avoidance and minimization of impact considerations regarding proposed noise barriers and utility relocations.
			General	Please update the AMR to address public comments made during the public hearing testimonies (see Attachment B - Summary of Public Comment).
			4	Consider discussing design build incentives as part of the Avoidance, Minimization, and Impacts Report.
			5	In Section 1.1 - Regulatory Context, can the comment "EO 13807 mandates that preliminary project design incorporate more avoidance and minimization techniques ..." be expanded upon? Suggest giving examples of techniques used that would not have previously been required.
			7	Page 7 states that there are 1,061 stream segments within the corridor study boundary; however, the NRTR and DEIS state show 1,075 stream segments. Please confirm which is accurate and revise accordingly.
			10	In Section 3.2.1 - Limits of Disturbance, consider clarifying that the LOD was reduced from the ROW line in cases where resources could be avoided in the third bullet.
			11	Was the project LOD sized to consider/include erosion and sediment control and proposed noise barrier impacts?
			13	In Section 3.2.2 - Stormwater Management Assumptions, consider adding a section addressing offsite stormwater facilities and the AMR assumptions that will be made regarding their siting.
			13	Table 3 of the AMR states that Wetland 4VV will lose hydrology due to SWM placement. However, this wetland is not shown as impacted on Impact Plate 48. Please confirm which is accurate and revise the AMR and Impact Plates/JPA accordingly.
			16	Please add Plummers Island to Section 3.3 Targeted Areas of Avoidance and Minimization on Page 16.
			24	In Section 3.3.5 - Potomac Crossing, please elaborate on why relocation to the west (narrative refers to this as north) is not feasible. It appears that a revised alignment adding lanes only to the west may be possible with minimal impacts to the residences in VA and the Naval Surface Warfare center. Please update to reflect current design efforts regarding minimization of impacts to Plummers Island and surrounding waters.
			28	In Section 3.3.7 - Other Stream Crossings, A. Augmented / Auxiliary Culverts - Please update this section to address potential upstream and downstream effects of the higher flows produced by the augmented / Auxiliary Culverts. See also Attachment D.
			28 and 29	Define the criteria for inclusion of the stream crossings discussed in Section 3.3.7.A., B., and C, as not all significant streams are described in this section.
			35	The impact numbers for waterways do not match the Natural Resource Technical Report Appendix A (Impact Tables) or the DEIS.
			35	Please update Section 4 to reflect avoidance of wetland buffer impacts. Consider adding discussion of permanent versus temporary impacts being determined at a later stage of design.
			39	Update Section 4.2.6 to discuss possible upstream and downstream effects resulting from new / augmented culverts.
	DEIS Appendix N	Draft CMP	General	Please refer to comments regarding the Draft CMP that were provided in MDE's Day 45 Comment Letter dated June 5, 2020.
	DEIS Appendix O	Indirect and Cumulative Effects Technical Report	General	Include discussion of wetland buffer and minimization of impacts to wetland buffers.
			56	The numbers in Table 3-12 are not consistent with Tables 4-1 ad 4-20 within the DEIS report to the NRTR.
			60	The total number of wetland features mentioned in first paragraph of Page 60 is not consistent with DEIS or NRTR.
			60/61	Page 60 mentions 15-17 acres of impacted wetlands in the first paragraph (which is inconsistent with Table 3-12), while the first sentence in the third paragraph on page 61 mentions 15-16 acres. Confirm which is correct and revise accordingly.

DEIS Appendix P	Public Involvement and Agency Coordination Technical Report	General	Update to include information regarding DEIS public involvement/comments. Will public notice materials related to public review of DEIS be added to this report (e.g., newspaper ads)?
		73	Consider updating Table 8-1 and the preceding paragraph in Section 8.1 with Natural Resources Agency meetings that have occurred thus far in the FEIS.
		73	Please add the following meetings to Table 8-1, Natural Resources Agency Consultation Meetings: Interagency Review Meeting on 11/15/2017 and Interagency Managers Meeting on 2/2/2018; Avoidance and Minimization Meeting field reviews on 6/3/2019, 7/16/2019, and 7/18/2019, Call with MDE and DNR on 9/10/2019; Recommended Preferred Alternative Meeting 1/17/2020; Cooperating Agency DEIS Comment Working Session on 2/27/2020 (in addition to 2/28/2020); Mitigation Site Discussion on 4/30/2020; and RFP-5 Henson Creek MLS Virtual Field Visit on 5/7/2020. Update the total number of agency consultation meetings in first paragraph of Section 8.1 accordingly.
		App A	The pages related to the public opinion survey results in Appendix A of the Public Involvement Technical Report (PITR) have titles/headers that are not legible, please revise.
DEIS Appendix Q	CMP	5	Update Section 2.1.1 to include details regarding the use of the required USACE Stream Calculator.
		5	Please include ratio for vernal pool impacts of 3:1. Please elaborate on vernal pool impacts and mitigation.
		6	The impact totals shown in Table 2-1 do not match the JPA impacts. Please confirm which is accurate and revise accordingly.
		7	Section 2.1.3 states there are 13 mitigation sites. Please revise this to state there are 14 mitigation sites (or updated as appropriate as site searches continue).
		7	Proposed wetland and stream credits do not match between Appendix Q and Appendix N (Draft CMP). Section 2.1.3 of Appendix Q proposes 61.94 acres of wetland mitigation credits and 74,085 linear feet of stream credits; however, the Draft CMP proposes 80.05 acres of wetland credit and 79,446 linear feet of stream credit. Confirm which is accurate and revise.
		6 and 7	Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land. Can you also provide contact information for the NPS point of contact(s) involved in coordination? Will the proposed mitigation for impacts to NPS wetlands will be included in the Compensatory Mitigation Plan? We understand that a Wetland Statement of Findings (WSOF) will be developed once a Preferred Alternative has been identified. Please ensure that MDE and USACE are included in the coordination regarding NPS mitigation.
		12	Update Section 2.3 Rare Threatened and Endangered Species (RTEs) to include updated survey time frames/results.
DEIS Appendix R	JPA	General	Please continue to address MDE's 45-day comments dated June 5, 2020.
Transit Coordination Report		General	Was the Transit Service Coordination Report used to evaluate the Indirect and Cumulative Effects (ICE), including increased parking demands? Please consider adding this report as an Appendix of the DEIS, and adding more information to the ICE Report and Traffic Section of the DEIS.
Courtesy Comments		ES4 of the Executive Summary	Page ES4 lists 19 technical reports; however, some of the documents listed are not technical reports. This could be misleading because it says the DEIS is supported by 19 technical reports (ex. JPA, purpose and need statement, ER mapping etc.)
		DEIS Section 4.21.2A (Page 4-125)	The third paragraph contains the same language that was included in the last two sentences of the second paragraph. Can the third paragraph be removed and just add the figure reference to the paragraph above?
		DEIS Section 4.21.5 B (Page 4-137)	Please update Table 4-40: Indirect Effects in the ICE Analysis Area to include language for how augmented culverts could indirectly affect drainage patterns and potential for flooding up or downstream of the culvert. Additionally, please include language about how noise barriers could effect or impact wetlands.
		DEIS Section 4.21.5.B.f (Page 4-139)	Include impacts within Environmental Justice blocks.
		Page 73 of Appendix P (Public Involvement and Agency Coordination Technical Report)	For consistency, use the same acronym for Maryland Department of Natural Resources in Table 8-1, Natural Resource Agency Consultation Meetings (MDNR). There is a typo for MDNR in the first paragraph in Section 8.1. Recommend removing "WHS" from MDNR acronym since other MDNR departments were involved in these meetings.

Table 1 - Wetlands Impacted by Noise Barriers for Avoidance and Minimization		
Map #'s	Resource Type	Resource ID
65, 66, 132	PFO and Buffer	18M
66, 67, 133	PFO and Buffer	17CC
67, 134	Buffer	17AA
67, 134	PFO and Buffer	17V
67, 134	Buffer	17S
68, 135	Buffer	16H
70, 137	PFO and Buffer	14I
70, 137	Buffer	14K
78, 145	PEM and Buffer	11F
81, 148	Buffer	10NN
82, 149	PFO and Buffer	9PP
82, 149	Buffer	9SS
82, 149	Buffer	9N
82, 149	Buffer	9TT
82, 149	Buffer	9BB
82, 149	Buffer	9WW
83, 150	Buffer	9W
87, 154	PFO and Buffer	7J
87, 154	PFO and Buffer	7HH
88, 155	Buffer	7K
91, 158	PFO and Buffer	5L
91, 158	PFO and Buffer	5K
95, 162	Buffer	3EE
95, 162	Buffer	3FF
96, 163	PFO and Buffer	2B
96, 163	Buffer	2S
96, 163	Buffer	2U
97, 164	Buffer	2FF
97, 164	Buffer	2II
98, 165	Buffer	1ZZ
105, 117, 172, 184, 196, 208	Buffer	26E
106, 118, 173, 185, 197, 209	Buffer	27F

Table 2 - Resources with missing labels in Appendix D - Environmental Resource Mapping	
Resource	Map Number
22HH_1	125
22DD_C	59, 126
22KK	59, 126

21C_2	60, 127
21L_C	128
18D_2	65
19K_7	67, 134
17R	67
17V	67, 134
16A_2	134
16J	68, 135
16J_B	68, 135
16K	68, 135
13X_C	71, 72
13X	138, 139
13M	72, 139
12JJJ_C	73
12HHH	140
12H	140
12H_C	140
12H_1	73
12M	73, 140
12H_C1	140
12OOOO	140
12D	73
12KKKK	73
12V	73
12E_C1	73
12ZZ	141
12II_B3	74
12VVV	74, 141
12AAAA	74, 141
12 KK	76, 143
11R_1	77
11M	77
11M_B	77, 144
11M_1	144
11L_3	144
11L_2	145
10H	79
10F	146
10O	146
10AAA	80, 147
10C	80
10TT_1	147
10JJ	81, 148
9J	82, 149
9O	149
9N	82, 149
9K	82

9CC	82, 149
8S_1	83
8P	29, 84
8Q	29, 84
8MM	84, 151
8A	151
8G_1	151
7Q_3	85
7BB_C	87, 154
7CC	154
7JJ_1	154, 155
7A_C	88, 155
7T_1	155
7G_C	88
6G_C	88, 155
6YY	88, 155
6WW	88, 155
6WW_C	88, 155
6NN	156
6YYY	33, 89
6S	89, 156
6AAA_1	89, 156
6MMM_1	89, 156
6FFFF_1	89, 90, 156, 157
6FFFF_2	89, 90, 156, 157
6FFFF_C1	89, 90, 156, 157
6AAA_B	90
6FFFF_C	157, 90
5W_1	90, 157
5V	90, 157
5TT	157
5OO	157
5PP	90
5RR	90, 157
4Z_C1	158
4Z_C	91
4FF	36, 91
4WWWW	92, 159
4XX	159
4V	92
4T	159
4III	92, 159
4EEE	159
4HHH_C	92, 159
4JJJ	159
4FFF	159
4DD	159

4W_C1	92
4C	92, 159
4JJJ	92
4MMMM	92, 159, 160
4OOOO	159
4III	92, 93, 159, 160
4KKKK	92, 93, 159, 160
4ZZZZ	38, 93, 160
4VVV	160
4SSS	160
3LL	161
4YYY	161
3ZZ	161
3P	94, 161
3S	94, 161
3MMM	94, 95
3R	94, 161
3LLL	161, 162
3L_1	94
3S_C	95
3KKK	162
3T	95, 162
3III	95
3BBB	162
3FFF	162
3HHH	40, 95, 162
3GGG	40, 95, 162
3CCC	95
3EEE	95
3C	95
2L	96, 163
2S	96, 163
2CC	96
2GG	96, 163
1A_C	97, 164
1QQ	97, 164
1CC	164
1EE	98
1I	98, 165
1JJ	98, 165
1MM	98, 165
1EEE	98, 165
23BB	166, 202
23K_C1	102, 114, 169, 181, 193, 205
23E	193
26D	105, 117, 172, 196
26J	172

26E	184
27G	106, 118, 185, 197, 209

Attachment B



Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Crumbles, Secretary
Horacio Tablada, Deputy Secretary

June 5, 2020

Lisa Choplin
Maryland Department of Transportation
State Highway Administration
601 North Calvert Street
Baltimore, Maryland 21202

Re: AI Number: 168251
Nontidal Wetlands and Waterways Application Number: 20-NT-0114/202060649
Project: I-495 & I-270 Managed Lanes Study (MLS)
Response Due Date: **July 20, 2020**

Dear Ms. Choplin:

The Maryland Department of the Environment (“MDE” or “the Department”) received your Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland (“Application”) on April 27, 2020. This letter is to inform you that MDE has determined that additional information is required as part of your Application. Please see the comments below and attached.

Additional information must be submitted to the Department by July 20, 2020. The Department would like to suggest setting up a meeting to discuss the items below in order to expedite the Application review process.

1. The Nontidal Wetlands Division calls your attention to Section 10 of the *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* you submitted, which requests information regarding other approvals you need, or have been granted. If you have, or need other Department of the Environment approvals and did not already provide that information, please list which program(s) or division(s) you are/will be working with and provide a contact name (e.g. Dam Safety, Water Appropriations, PRD).
2. Please respond to the following comments regarding property owner coordination:
 - a. Provide an excel spreadsheet that includes all of the final adjacent property owners to the roadway corridor and mitigation projects, including mailing addresses, that will be notified as part of this project’s public notice. Please also include a section for elected officials and their addresses as well. Please ensure this list is updated based on any impact plate or limits of disturbance (LOD) changes that are made prior to public notice to ensure all necessary interested persons are notified.
 - b. We understand that the Certification of Notification will be sent out concurrently with the Public Hearing notice. Please provide the signed Certification of Notification form after the notice as been sent.
3. As discussed, an Individual Water Quality Certificate (IWQC) and review under Maryland’s Coastal Zone Management Plan is required for this project. The IWQC will likely be applied for at the time of the Final Environmental Impact Statement (FEIS) and a public notice with an opportunity for a public hearing will be required for the IWQC. Attached is a courtesy copy of a document that outlines the key elements currently required in a request for an IWQC (Attachment A). Please note, a second completed Billing Approval Form may be required for the IWQC notice.
4. Pre-application comments were provided on March 11, 2020. Several comments were not addressed in the Comment Response Errata that was provided with the JPA. A ‘MDE Follow-up Comments’ column has been added to the attached Comment Errata (Attachment B). Please respond accordingly.

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20-NT-0114
Page 2

5. Provide an updated project schedule, including an anticipated timeline for plan submittal and construction.
6. As previously discussed, avoidance and minimization will be required throughout the design process if the project moves forward. Impacts for the project are currently shown as permanent; however, the Design-Build Team would be required to continue to avoid and minimize impacts throughout design and construction. Permanent and temporary impacts will need to be quantified as design progresses, and evaluated again after construction is complete to quantify final avoidance and minimization efforts for the project. Will there be any incentives or penalties to encourage the Design-Build Contractors to continue to avoid and minimize impacts to regulated resources other than the requirements of the permit?
7. Please provide an update on the potential need for off-site stormwater management locations, and the stormwater strategy for the project.
8. Please respond to the following comments regarding culvert/bridge design and associated Hydrology and Hydraulics (H&H):
 - a. H&H Analyses will be required for any new bridge or culvert construction and for any extension and/or out-of-kind replacement of any bridge or culvert. Sizing computations may also be required for riprap installation within intermittent and perennial streams in areas that are not included within an existing H&H analysis.
 - b. Provide a list of all the bridges/culverts, including stormwater outfalls, that are carrying either intermittent or perennial waters and will potentially be extended or replaced for this project. Provide the corresponding impact plate number and Stations. This list will likely be referenced as a Special Condition to ensure appropriate H&H review is conducted during the design-build process, as well as review for passage of aquatic life.
 - c. Will the final roadway or mitigation designs result in increased risk of flooding on any adjacent properties during a 2-, 10- or 100- year event? If so, notification or permission from the adjacent property owners will likely be required.
 - d. Ensure that passage of aquatic life is considered in the design of new, extended, and replaced culverts and bridges, and in the design of stream relocations.
9. Address the following comments regarding the MDE Impact Plates:
 - a. Revise the impact plates to address the comments listed in the attached MDE Impact Plate Comments spreadsheet (Attachment C). Please note, a few additional comments have been incorporated into this spreadsheet since it was provided on May 21, 2020.
 - b. Please confirm that no Wetlands of Special State Concern (WSSC) or associated 100-foot buffers will be impacted by the project. For example, the LOD extends beyond the limits of Impact Plate 24a to the northeast and a WSSC occurs to the north of the impact plate along I-95. Please confirm that there are no impacts to this WSSC or its 100-foot buffer. Additionally, please confirm that there are no impacts to the 100-foot buffer of the WSSC south of Impact Plate 22 and Mitigation Site AN-6/AN-7.
 - c. Best efforts should be made to avoid impacts to potential vernal pool wetlands listed in Comment 13.c.vii. below.
10. The project's LOD intersects The Piscataway Creek 2 Tier II Catchment (with no assimilative capacity), the Bald Hill Branch 1 Tier II Catchment (with no assimilative capacity), and the Beaver Dam Creek 2 Tier II Catchment (with remaining assimilative capacity). Please respond to the following Tier II comments:
 - a. The Cover Letter states that a Tier II Checklist is provided; however, a Checklist is not provided in the attachments. Please provide a completed Antidegradation Applicant Review Checklist (Attachments D.i.).
 - b. Update the 'Impact to Tier II Watersheds In or Near the MLS LOD' Table in the '1_CoverLetter_JPA_Tier II Table_BA Form_Vicinity Map (1)' PDF within the JPA package to include Impact Plate Numbers and impacts to wetlands within Tier II watersheds as well as streams. Can the Tier II boundary be added to the Impact Plates and Plans?
 - c. Linear projects such as new major highways present additional water quality concerns. To avoid and minimize impacts, applicants are required to manage compaction, monitor background levels of basic water quality parameters, and possibly conduct biological monitoring using Maryland Biological Stream Survey (MBSS) protocols and analysis procedures. All required monitoring plans must be approved by

20-NT-0114
Page 3

- MDE. It is strongly recommended that you coordinate as soon as possible with Angel Valdez of the Water and Science Administration's Environmental Assessment and Standards Program (EASP). She may be reached by phone at (410)-537-3606 or by email at angel.valdez@maryland.gov.
- d. Complete and return the 'Linear Project Review Form' (Attachment D.ii.), and acknowledge receipt of the 'Biological Data Quality Guidelines', and the 'Biological Monitoring Plan Template', (Attachments D.iii. and D.iv.).
 - e. This application has been forwarded to the Department's Environmental Assessment and Standards Program (EASP) and additional comments may be provided.
11. Coordination is ongoing with resource agencies, including but not limited to the Maryland Department of Natural Resources (DNR) Wildlife and Heritage Service (WHS), DNR Environmental Review Program (ERP), and the United States Fish and Wildlife Service (USFWS) regarding this project and its proposed mitigation.
 - a. Please respond to the following preliminary questions from previous DNR correspondence, as well as the comments listed in the DNR Comment letter dated June 2, 2020 (Attachment E). Additional comments may be provided by DNR following completion of their review of the JPA.
 - i. Has DNR approved the results of the rare, threatened, and endangered (RTE) species survey that was completed in July 2019?
 - ii. Please provide an update on the status of the Northern Long-Eared Bat (NLEB) and Indiana Bat (IB) survey, and the RTE survey for buttercup scorpionweed (*Phacelia covillei*) that was planned for Spring 2020.
 - iii. MDOT SHA's response to DNR's Comment No. 30 in the Natural Resources Technical Report (NRTR) Agency Comment Errata states that vernal pools do not have different regulatory requirements than other wetlands. Please note that vernal pools have a higher mitigation ratio than other wetlands (3:1) and therefore need to be called out separately. Please provide a list of any wetlands, in addition to the wetlands listed in Comment 13.c.vii below, that function as vernal pools. Once review of these wetlands is complete, the Impact Plates and Draft Compensatory Mitigation Plan (CMP) may need to be revised to update impacts and mitigation ratio/totals.
 - b. Please respond to the attached comment letter from USFWS dated May 29, 2020 (Attachment F).
 - c. Provide an update on coordination with Maryland-National Capital Parks and Planning (M-NCPPC) for the roadway and mitigation projects.
 - d. Provide an update on coordination with the appropriate Scenic and Wild River Advisory Board for the Potomac River.
 - e. Provide an update on the status of the Programmatic Agreement between SHA and the Maryland Historical Trust (MHT).
12. Please address the following comments regarding the Avoidance, Minimization, and Impacts Report (AMR):
 - a. Consider adding a clear description of how future avoidance and minimization will be promoted / required - Will the selected design/build team(s) be incentivized? How? One of the challenges of permitting accelerated contracting methods including design build is that there are often tradeoffs in efficiency (both cost and construction timing) for avoiding / minimizing impacts. Therefore, without specific commitments, determining adequacy of preliminary avoidance and minimization efforts is difficult.
 - b. The design plans clearly reflect an effort to avoid and minimize impacts to wetlands as reflected in the LOD at many locations being shaped to avoid them. The same effort must be applied to avoiding impacts to Maryland's regulated 25-foot or 100-foot wetland buffers throughout the project.
 - c. Section 1.1 Regulatory Context: Recommend revising to "MDE regulates... ..under various statutes including the Maryland Nontidal... ..Act, Waterway Construction Statutes, and section 401..."
 - d. Section 1.2 The Build Alternatives: At end of first paragraph - please reword to "require" further avoidance and minimization rather than "consider".

20-NT-0114
Page 4

- e. Section 3.2.1 Limits of Disturbance: First example paragraph includes the statement "In all but the unique cases discussed later in this report, proposed stormwater ponds will not permanently impact jurisdictional features". This seems to conflict with statements regarding SWM outfalls impacting streams (see 3.2.2).
 - f. Section 3.2.2 Stormwater Management Assumptions: Second paragraph - "Impacts associated with stormwater outfalls will largely be determined to be temporary in the FEIS." - How was this determined? Many SWM outfalls result in permanent impacts to receiving waters due to stabilization measures.
 - g. Section 3.3.4 Potomac River: 5th paragraph - "The proposed bridge would require special permit conditions indicating precise existing structural removal requirements and construction methods..." Please reword to have applicant take responsibility for proper techniques rather than the permitting agencies.
 - h. Section 3.3.4 Potomac River: Flexi Float Barges are referenced without explanation - please describe. Will this be the only method for construction allowed?
 - i. Section 3.3.7A Augmented / Auxiliary Culverts: MD 378 regulations are referred to without explanation - please define. Where installation of a parallel culvert is the only activity, the existing culverted stream may not need to be considered impacted.
 - j. Section 3.3.7C Additional Stream Crossings: Suggest adding narrative describing how existing structures were determined to not need replacement - has structural integrity been evaluated? Could any structures be replaced with bridges or improved culverts as mitigation? Should a statement be included that addresses possible need for replacement during later phases of construction if determined necessary?
 - k. Section 3.3.7C Additional Stream Crossings: Cabin John Creek - Can a commitment be made to enhance the existing stream conditions at this bridge crossing?
 - l. Section 4.2.6 New/Augmented Culvert: Augmented culverts can be expected to increase erosive forces downstream due to higher flows (sometimes for great distances) - has placement of outfall protection and/or use of other measures (stream stabilization techniques) been included within LOD for sufficient distance to meet COMAR requirements?
 - m. Section 4.2.10 Hydrology Loss: Many wetlands listed in Table 3 indicate "Diversion of water by SWM vault". Please add narrative describing what this means.
13. Please address the following comments regarding the proposed mitigation for this project:
- a. Provide a schedule on the progress at each mitigation site, including if the wetland delineation has been completed, design milestones, and draft schedule for construction/completion of each mitigation site. The wetland delineation at each site will likely change the proposed credit totals and should be completed as soon as possible to ensure there is enough mitigation in each watershed and no-net loss is met. Impact plates will be required for each mitigation site.
 - b. Please address the following comments regarding the Phase I CMP. Additionally, the CMP has been sent to the Mitigation and Technical Assistance Section and additional comments may be provided following their review:
 - i. As previously discussed, to ensure no net loss of wetlands in each watershed, an additional 0.64 acres of wetland mitigation is required within the Patuxent Watershed, or impacts need to be reduced by 0.64 acres prior to permit issuance.
 - ii. Update the CMP and its Appendices to include square feet in addition to acreage when referring to impacts and required mitigation totals.
 - iii. The range of permanent wetland impacts described in Section 3.3, Impact Summary, Section 5.2, Off-Site Mitigation Requirement and Table 5-2, Maryland Wetland Mitigation- DEIS Build Alternative Ranges, does not match the current MDE Impact Table attachment. Please update. Additionally, please ensure impact totals in the MDE Impact Tables match the Impact Totals in Appendix A, Appendix B, and Tables 1-1, 1-2, 5-2, 5-3 of the CMP after impacts have been finalized according to the attached P3 Impact Plate Comments.
 - iv. Separate out/exclude ephemeral impacts from MDE mitigation requirements within the CMP and Appendices A, B and D.

20-NT-0114
Page 5

- v. Add a column to the Bridge and Culvert Impact Tables in Appendix B to include the corresponding impact plate numbers.
- vi. Add a column to the MDE Impact Tables in the JPA to clarify which streams will be mitigated onsite versus offsite.
- vii. The following wetlands are potential vernal pools. Coordination with DNR is ongoing to confirm if these wetlands function as vernal pools. Please continue to avoid and minimize impacts to these wetlands as much as possible. If permanent impacts cannot be avoided, these wetlands will likely require wetland mitigation at a 3:1 mitigation ratio. Vernal pool creation to mitigation for vernal pool impacts is preferred. Please revise the mitigation plan accordingly.
 - 1. 16L- small ponded area with frogs in late July - Plate 14 – 148 SF impacts and 3,627 SF Buffer impacts
 - 2. 2LL- ponded area within wetland swale observed during delineation and potentially functions as a vernal pool, located on M-NCPPC property within Andrews Manor Park - Plate 54 - a small area of the wetland is within the LOD
 - 3. 17O- surface water within wetland outside plot point – Plate 13 – not currently within LOD
 - 4. 18K- potential vernal pool habitat – Plate 11 – not currently within LOD
 - 5. 18L- series of vernal pools – Plate 12 – not currently within LOD
 - 6. 1CCC- potential vernal pool along toe-of-slope within wetland located on M-NCPPC property within Henson Creek Stream Valley Park- Plate 57A – not currently within the LOD
- viii. An updated list of wetlands and waterways impacts within Tier II watersheds has been requested in Comment No. 10.b. Equivalent mitigation within the impacted Tier II watersheds is required. If this is not possible, justification will be required. Likewise, please confirm that there is enough mitigation taking place in Use III and IV watershed, to mitigate for impacts within Use III and IV watersheds. This discussion is ongoing with the Mitigation and Technical Assistance Section.
- ix. If any existing wetlands are permanently impacted by any of the stream restoration/wetland mitigation projects, those wetland impacts will be required to be replaced in-kind onsite at one of the mitigation sites within the same watershed. If these wetland impacts cannot be replaced, additional public notice may be required.
- x. The CMP proposes that impacts to streams within existing culverts and under existing bridges are not included in required stream mitigation totals. Please confirm that there will be no change to in-stream habitat beneath bridges in order to confirm that mitigation for streams beneath bridges is not required. If in-stream habitat beneath existing bridges will be altered (e.g. a natural channel bottom is proposed to be riprapped), mitigation may be required.
- xi. The Corps released the Stream Function Calculator for use on mitigation projects, which will be required for this project. Please update impacts and proposed mitigation accordingly.
- xii. Provide the criteria used for the stream functional assessments.
- xiii. On page 11, Section 3.4, of the CMP regarding functional assessment, please clarify that only certain resources were reviewed, as not all functions and values assessments were approved.
- xiv. Please respond to the following regarding proposed on-site Stream Mitigation:
 - 1. The CMP states that channels proposed for on-site stream mitigation include open channels that will remain in place, or be relocated within close proximity to their original location, and the channels that will remain in place are within the LOD where no roadway fill or infrastructure is proposed. Will the impacts to the channels that are proposed to 'remain in place' be temporary in nature (e.g. construction access crossing, stream diversion), or will these channels be restored or stabilized in some way? Please add a column to the tables in Appendix D to clarify what work is proposed to each channel. Additionally, add a column to include the corresponding impact plate number.

20-NT-0114
Page 6

2. Please confirm that natural stream design is proposed for relocated channels where possible. If natural channel design is not proposed, additional mitigation may be required. Stream design plans and reports, including H&H analyses, will be required for every channel that is proposed to be relocated.
3. The CMP states “Impacts to these [on-site mitigation] channels may be designated as temporary during the final design stages.” Please note, in order to ensure the appropriate amount of mitigation credit is available for this project, on-site mitigation impacts will likely be required to remain called out as permanent in the final design stages once the on-site mitigation totals have been approved. Additionally, if some of the on-site mitigation stream work is determined during the design process to be true permanent impacts, additional stream mitigation may be required.
- xv. Provide a copy of the latest version of MDOT SHA’s “Grant of Mitigation Easement,” which is the proposed site protection instrument for non-MNCPPC sites. For sites on MNCPPC and USDA property, some form of agreement must be put in place to allow access for monitoring and maintenance in perpetuity. Please provide a draft of this agreement with Prince Georges and Montgomery County Parks and USDA.
- xvi. Please provide the full Phase I Mitigation Reports provided with the RFP that are referenced in Appendix L, Private Phase I Mitigation Design Plans, as available.
- xvii. Provide more information regarding the functions that each mitigation site will provide to replace lost functions and values of impacted wetlands and streams and the functional uplift provided, specifically for sites that are proposing wetland enhancement credit. Please provide information to justify the sustainability of proposed enhancement and preservation.
- xviii. Provide photos of each proposed mitigation site within each site’s Mitigation Plan.
- xix. Ensure all utility easements are shown on each mitigation plan (can be either field surveyed or from approved as-builts). Diameter and elevations of the lines may also be required.
- xx. Please address and respond to the attached Site Specific Mitigation Comments (Attachment G). Please note, discussions with the Mitigation and Technical Assistance Section are ongoing regarding site design and constraints, wetland and stream buffers, and credit ratio determinations.
- xxi. Please note, wetland monitoring will be required for ten years with reports at years 1, 3, 5, 7, and 10. Stream restoration monitoring will be required for seven years, with reports at years 1, 3, 5, and 7. However, MDE has the right to extend monitoring if the performance standards are not met.
- xxii. There may be excess wetland and stream mitigation beyond what is required to mitigate I-495/I-270 Managed Lanes Study Project impacts. Will this excess wetland and stream credit be proposed to be used as advance mitigation? If so, a list of projects with known impacts and an Advance Mitigation Plan needs to be provided prior to permit issuance (see Attachment H - Draft Advance Mitigation Plan guidance). If potential advance mitigation is not approved prior to permit issuance, any excess wetland and stream mitigation must be presented to the Interagency Review Team (IRT) as a proposed mitigation bank in order for credit to be potentially available for future use.
- xxiii. Please ensure the following comments are addressed in the Phase II Mitigation Plan, some of which are reminders from the pre-application comments. Additionally, please incorporate all elements of the Phase II Wetland Mitigation Plan – Required Information Checklist (Attachment I) in the Phase II Mitigation Plan package.
 1. Ultimate credit ratios for fish passage as determined by the Fish Passage Work Group.
 2. Clarification/justification for wetland enhancement credit ratios.
 3. Additional wetland mitigation within the Patuxent watershed is needed. Please continue to locate potential mitigation sites and report on progress.
 4. Evaluation/quantification of riparian buffer impacts at stream restoration sites.

20-NT-0114
Page 7

5. Additional information regarding long-term management (e.g., hydrology, herbivory, invasive species control) maintenance, and adaptive management specific to each mitigation site.
6. Specify areas (including riparian buffers) that will be protected from development and other significant alteration, including timber removal. This is a particular concern on RFP-1, which is planned for extensive further development, but should be made clear for all sites.
7. Water budgets and monitoring data for each wetland mitigation site.
8. H&H Analyses for each stream restoration site.

Review of the project, including access to additional properties, is ongoing and additional comments may be provided. The Department would like to help you successfully complete the application review process. If you have any questions or if I can assist you in any way, please do not hesitate to contact me by telephone at (667) 219-3279 or by email at Emily.Dolbin@maryland.gov, or Steve Hurt by telephone at (443) 856-4760 or by email at Steve.Hurt1@maryland.gov. Please refer to the above referenced AI Number when corresponding with this office.

Sincerely,



Steve Hurt, on behalf of WSA,
Nontidal Wetlands and Waterway Construction Divisions

Enclosures: (A) IWQC Application Guidance
(B) Comment Errata
(C) P3 Impact Plate Comments
(Di, Dii, Diii, Div) Antidegradation Applicant Review Forms
(E) DNR Comment Letter dated June 2, 2020
(F) USFWS Comment Letter dated May 29, 2020
(G) Site Specific Mitigation Comments
(H) Draft Advance Mitigation Plan Guidance
(I) Phase II Wetland Mitigation Plan – Required Information Checklist

cc: Caryn Brookman, MDOT SHA
Jack Dinne, U.S. Army Corps of Engineers
Amanda Sigillito, MDE
William Seiger, MDE
Kelly Neff, MDE
Angel Valdez, MDE
Emily Dolbin, MDE

Attachment C - Summary of Public Comments	
Below is a list of summarized comments received during the public comment period that requires additional information. Additional comments may be received after the November 9, 2020 deadline, and will be forwarded for inclusion. Please provide additional information on the following topics as point-by-point responses, and for inclusion in the FEIS and appropriate attachments.	
Comment Category	Summarized Public Comments
Purpose and Need	How does COVID 19 affect traffic patterns and the purpose and need for this project? Many public commenters stated they would like to see the traffic analysis re-done, and wonder if the purpose and need is still valid considering likely changes to work trends. Numerous comments also questioned the changing work trends affect on financial viability of tolling options. A thorough reexamination of potential future work trends and their effect on traffic and tolling seems appropriate.
	Many commenters referenced the ongoing issues that the Purple Line P3 is experiencing as evidence that the P3 process is not appropriate for this project. Additional support for the financial viability of the project seems appropriate. How will this project differ from the Purple Line to prevent recurrence of cost overruns and delays?
Alternatives Analysis/ Avoidance and Minimization	Numerous commenters expressed that MDOT has not adequately considered mass transit options (including for the American Legion Bridge).
	Many comments expressed concern that LOD is unrealistic and will need to be expanded to allow for proper construction techniques. Further support for the development of the LOD based on constructability analysis may be needed.
Environmental Justice	Numerous comments addressed topics of environmental justice (EJ). Issues including health effects on EJ communities, lack of analysis on tolling and its effect on the financially disadvantaged, and inadequate consideration of EJ issues throughout the DEIS. Consider adding significant analysis to the EJ section of the FEIS.
Private Property/Communities/ Neighborhoods	Numerous comments we received regarding the Carderock Springs neighborhood and how it will be impacted. Commenters requested noise barriers, additional tree plantings, and more details on how their neighborhood will be impacted by construction. In particular, residents of this neighborhood are concerned about the band of trees that separate their neighborhood from the beltway and making sure noise barriers are built. Consider additional coordination with this community and include results in future documentation.
	Comments requesting effective noise barriers and SWM during and after construction were received from representatives of various communities including the Cabin John Citizens Community.
	A few commenters expressed they would like to see a bridge over Henson Creek to preserve and extend the Henson Creek Trail. Can this be considered as part of the project?
	Several comments requested additional information regarding Elmhurst trail. Consider adding content to the FEIS addressing effects on the trail.
	Received comments regarding research conducted on Plummers Island and the impacts the project could have on the island. Please address in the FEIS.
Environmental Impacts	Locust Hill Citizens Association does not advocate for Phase 2, and is in favor of Alternative 9M if any option is constructed. The Association would also like Cedar Lane to be reconstructed.
Cultural and Historic Resources	Numerous Comments were received suggesting that climate change has not been adequately addressed.
Stormwater Management/Water Quality	Many commenters are concerned with destruction of historic resources and suggest that the Section 106 study is inadequate. Please provide an update on Section 106 compliance.
	Numerous comments indicate that SWM not adequately addressed in the DEIS. Consider adding further detail regarding the complete SWM approach and locations to the FEIS.
Mitigation	Concerns were raised regarding a decrease in water quality, and an increase in runoff/discharge and requested further examination.
	Friends of Sligo Creek Park requested additional SWM efforts within the park. Consider additional coordination with this organization and include results in future documentation.
Wetlands and Waterway Impacts	Several comments suggested that onsite mitigation needs to be examined further.
	A few commenters express concern about impacts to Rock Creek and want specifics on how Rock Creek will be impacted and mitigated. Consider expanding the discussion of this area and how minimization / mitigation measures will be implemented.
Parkland	The Anacostia Watershed Society is concerned about impacts to the Anacostia River and requests watershed specific mitigation. Consider expanding the discussion of this area and how minimization / mitigation measures will be implemented.
	Extensive comments addressed the need for further avoidance and minimization of Section 4(f) parkland impacts. Consider further clarification of avoidance, minimization, and mitigation measures that apply to work in and adjacent to parkland.
Noise/Air Pollution	Comments suggested a need for improved bicycle and pedestrian trail access in Prince George's County. How has this been considered during project planning?
Cost	Many general comments addressed anticipated increases in noise and air pollution, and resulting effects on health and climate change. Consider further addressing these issues within the FEIS.
	Many commenters express concern about the high cost of the project and likely burden on taxpayers especially with changes associated with the pandemic. Other comments focused on the lack of clarity regarding potential toll rates. Consider revising the discussion of the financial implications of the project to include updated analysis of near and long term rates and potential for taxpayer subsidies.
	Several comments reference utility relocation costs being born by the ratepayers as a hidden cost of the project. Address these costs more thoroughly in the FEIS.

Attachment D



Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Ben Crumbles, Secretary
Horacio Tablada, Deputy Secretary

November 5, 2020

Ms. Caryn J G Brookman
I-495 & I-270 P3 Office
601 N. Calvert Street
Baltimore, Maryland 21202

Mailing Address:
707 North Calvert Street, Mailstop P-601
Baltimore, MD 21202

Re: I-495 & I-270 Managed Lanes Study (SHA FMIS No. AW073A11),
Culvert Augmentation and Permitting

Dear Ms. Brookman:

The Maryland Department of the Environment, Wetlands and Waterways Program (“the Department”) has reviewed your requests regarding: 1) Permitting of the entire 48 mile corridor versus a phased approach; 2) timing of a Water Quality Certification based on the permitting the entire corridor versus a phased approach; and 3) use of surrogate information over traditional wetland delineation for areas outside the current Limits of Disturbance (LOD). Let me assure you that we will make use of available flexibilities to the extent allowed by our regulations and laws; we share common interest in ensuring that the permitting actions associated with this project are decided in a timely manner and meet legal requirements. We both want to ensure that we are able to successfully defend any possible challenges to these actions. Below are point-by-point responses for your consideration:

- 1) The Department, in conjunction with the U.S. Army Corps of Engineers, has reviewed the various relevant regulations related to processing a project of this magnitude including MDE’s regulations, *Executive Order (EO) 13807 Federal One Decision*, and the *Clean Water Act Section 401 Certification Final Rule*, etc. Based on the review of its regulations and consideration of the EO and Section 401 of the Clean Water Act, the Department has determined that the current level of information provided at this time would not allow for permitting of the entire 48 mile corridor for the I-495 & I-270 Managed Lanes (MLS) Study. The following information is necessary to move forward with potential authorization of a corridor wide permit:
 - a) A reasonable estimate of the total project impacts including:
 - i) An LOD in the location of impacts related to augmented culverts resulting from compliance with 378 requirements, which includes:
 - (1) Determination of flood risks and channel stability under the Code of Maryland Regulations (COMAR) 26.17.04.06B(4), 26.17.04.06B(5), and 26.17.04.11B(6);
 - (2) A list of adjacent property owners;
 - (3) Applicable wetland delineations.
 - ii) Locations of new off-site stormwater management, including;

Ms. Caryn J G Brookman
Page 2

- (1) A list of adjacent property owners;
 - (2) Applicable wetland delineations.
 - iii) Locations of new stream and wetland mitigation sites if permanent impacts will occur.
 - iv) Locations of mitigation for the National Park Service if permanent impacts will occur.
 - b) Additional information as requested in the Department’s comment letter dated June 5, 2020.
- 2) Issuing the Water Quality Certification (WQC) for the entire corridor is problematic based on the current amount of information available. For example, all of the same information required in #1 above is also included as necessary information for consideration of a WQC. Issuance of a Water Quality Certification for the entire 48-mile corridor would require that the project be able to demonstrate compliance with Maryland’s water quality standards and the lack of sufficient information as contained in this letter minimally needs to be provided. As another example, a request for WQC shall include the location and frequency of discharge at a particular location or as may occur from the project. It would be difficult for a requester to be able to provide this information when the location and number of culvert augmentations is unknown. Furthermore, in consideration of the administrative procedures and timing requirements of applicable laws and regulations per Section 401 of the Clean Water Act, serious consideration should be taken regarding EO 13807 Section XIII regarding exceptions.
- 3) Additional information is required regarding the use of surrogate wetland and stream delineation information. Please describe the type and source of information that would be used, and where surrogate information would be applied.

In addition to the information above, an additional MDE public notice for the Joint Permit Application will likely be required to include property owners adjacent to impacts related to augmented culverts, new off-site stormwater locations, and new off-site stream and wetland mitigation locations if permanent impacts are proposed. We look forward to continued coordination regarding the timeline of the project.

If you need any further information or assistance, please do not hesitate to contact Amanda Sigillito by telephone at (410) 537-3766 or by email at Amanda.Sigillito@maryland.gov.

Sincerely,



Heather L. Nelson, Acting Manager
Wetlands and Waterways Program

cc: Joseph DaVia, U.S. Army Corps of Engineers

Maryland-National Capital Park and Planning Commission - DEIS Comments

No.	M-NCPPC Department	Reference	Comment	Response
1	General	General	The Commission has a number of key concerns with the Lead Agencies' Purpose and Need statement, the impacts to the natural and built environment the Lead Agencies identified, the alternatives they evaluated, and the mitigation they considered. The Commission's objections center on the Lead Agencies' failure to consider reasonable alternatives with fewer impacts to the environment, with a focus on the parkland and streams under the express jurisdiction of the M-NCPPC.	General statement, no response required.
2	General	Maryland-National Capital Park and Planning Commission	The Commission members want to reassure the Lead Agencies that its comments do not reflect a decision to oppose or support the Project. Rather, as the governing body of this Cooperating Agency, the Commission is carrying out its responsibilities as the planning agency for Montgomery and Prince Georges Counties and as the parkland steward in these counties. The Lead Agencies are no doubt aware of the Commission's concerns regarding the environmental review process, attributable largely to their failure to undertake a comprehensive analysis of reasonable alternatives, impacts, and mitigation measures and failure to incorporate best practices in transportation, environmental protection, and land use planning. The Lead Agencies' approach is at odds with M-NCPPC's statutory obligation to make well-reasoned and informed decisions regarding parkland, cultural resources, and historical resources. Still, M-NCPPC remains committed to working collaboratively with the Lead Agencies as they continue their environmental review of the Project and apply for the required federal and state permits. The Commission's hope is that the Lead Agencies will consider changes to the Project that minimize impacts to parkland and streams and take meaningful steps to responsibly address the unavoidable impacts to parkland that would result from a selected Build Alternative.	General statement, no response required.
3	General		The Project's Purpose and Need Statement presupposes managed lanes at the expense of multimodal alternatives, including transit, such that the Lead Agencies rejected reasonable alternatives from detailed study that would have fewer environmental impacts than the Build Alternatives.	<p>The Study's Purpose and Need allowed for a robust analysis of a full range of alternatives that included evaluation of non-tolled, general purpose lanes, tolled managed lanes, transit only, and a combination of highway and transit improvements. Initially a range of 15 preliminary alternatives were identified and analyzed based on previous studies and planning documents, input from the public and federal, state and local agencies during the scoping process. Additional alternatives were identified and analyzed in direct response to public and agency comments, including M-NCPPC, for a total of 18 different alternatives, including the Preferred Alternative.</p> <p>Consistent with long established federal environmental regulations, the purpose and need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The purpose and need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution. That is, NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively take a hard look at the environmental effects of that proposed solution and benefits and effects of other reasonable alternatives.</p> <p>Refer to Chapter 9, Section 3.1 for a response on Purpose and Need. Refer to Chapter 9, Section 3.2.A for a response on screening of Preliminary Alternatives Process and Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.</p>

No.	M-NCPPC Department	Reference	Comment	Response
4			To be clear, the Commission is not advocating that the Lead Agencies designate a transit alternative as the locally preferred alternative. Rather, the Commission's position is that the Lead Agencies should have considered the MD 200 Diversion Alternative and multimodal options and evaluated them against the managed lane alternatives as part of the NEPA process, so that the relative environmental impacts of the managed lanes alternatives can be fully understood.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need. Refer to Chapter 9, Section 3.2.A for a respond on screening of Preliminary Alternatives Process and Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.
5			The Commission appreciates MDOT SHA's past and future commitment to reduce to the maximum extent possible the LOD and construction impacts to the most critical resources within the project area. However, the LOD must be expanded in many areas to allow for work to restore, stabilize, transition, and protect natural resources, as well as for construction access, staging, grading, and materials storage.	Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance. MDOT SHA employed a conservative approach to defining the LOD for all the DEIS Build Alternatives and Preferred Alternative. The LOD represents the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, stream stabilization, and related activities to the proposed roadway and interchange improvements. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. Moreover, the methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. MDOT SHA understands that M-NCPPC is requesting certain work and mitigation to occur outside the LOD but it is MDOT SHA's commitment to constrain the environmental impacts.
6	General		MDOT SHA and FHWA failed to study in detail the MD 200 Diversion Alternative.	The MD 200 Diversion Alternative was developed and analyzed with input from agencies, including M-NCPPC, to the same level of detail and using the same approach for the anticipated limits of disturbance as all other Screened Alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need. Traffic analysis was performed using the same key traffic metric applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput; and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Diversion Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. In fact, the MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. Moreover, the preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the state of approximately \$310 million. Refer to DEIS, Chapter 2, Section 2.5.2 b. Therefore, even recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA's final conclusion, concurred with by the FHWA, was that this alternative would not adequately meet the established Purpose and Need. Refer to Chapter 9, Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.

No.	M-NCPPC Department	Reference	Comment	Response
7	General		Right-of-Way acquisition in furtherance of any of the Build Alternatives runs afoul of the Capper-Cramton Act.	MDOT SHA and FHWA respectfully disagree.
8	General		MDOT SHA has failed to recognize that M-NCPPC (and NCPC) must approve the use of these CCA properties for the Project, and only after finding the land is no longer needed as parkland. Similarly, only M-NCPPC can ask the Department of Interior to change a use or deed restriction, for example, to Cherry Hill Park, separate and apart from NEPA's environmental review requirements.	MDOT SHA acknowledges NCPC and M-NCPPC's roles in compliance with the Capper-Cramton Act. However, based on NCPC's letter to MDOT SHA on November 10, 2021 and recent research by M-NCPPC, NCPC has acknowledged that it does not have Capper-Cramton jurisdiction over the two potentially impacted Cabin John Stream Valley Park locations in Maryland. Additionally, since the land is already owned by the State of Maryland and the project is a state-sponsored project, NCPC also acknowledged that it does not have jurisdiction over the two Cabin John land parcels under the Planning Act.
9	General	2.7.4	The Project's Limits of Disturbance are underestimated. Section 2.7.4 of the DEIS describes the Limits of Disturbance ("LOD") for the Build Alternatives, and Appendix B describes efforts by the Lead Agencies to minimize the LOD for each of the Build Alternatives. The LOD specified in the DEIS is narrower than what MDOT SHA and FHWA depicted in earlier maps.	Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance and see response to comment #5.
10	General		While avoidance and minimization efforts have reduced direct impacts to parkland, the stormwater burden in these areas has increased and severe shortfalls in the onsite regulatory stormwater management requirements are anticipated. Because MDOT SHA does not plan to finalize the Project's design until after it completes the NEPA review and awards a contract to a firm to undertake the project, there is significant risk that the LOD will need to be much larger than what is reflected in the DEIS.	A more detailed stormwater analysis was completed for the FEIS and the estimated onsite regulatory stormwater need has been significantly reduced from 114 acres to 2.5 acres. Refer to FEIS Chapter 3, Section 3.1.6 for details of the stormwater analysis for the FEIS. Also refer to response to comment #132. Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance. Refer to Chapter 9, Section 4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management.
11	General		MDOT SHA has failed to consider the Project's impacts from phasing.	The I-495 & I-270 Managed Lanes Study limits were established based on an evaluation of logical termini and independent utility, not construction phasing. This allowed analysis of traffic and environmental impacts on a broad scale. Based on feedback received on the DEIS, the Preferred Alternative was identified to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only in an effort to avoid and minimize impacts to natural, cultural and community resources and to avoid residential and business displacements. If the Preferred Alternative is selected and approved by FHWA in a Record of Decision, consideration of potential improvements to the other parts of the interstate system in the Study Area would advance separately. Additional required environmental studies, analysis and collaboration with the public, stakeholders and agency partners would occur at that time. Focusing now on Phase 1 South, the area with the highest levels of regional support for immediate improvements, allows MDOT SHA time to further plan for and conduct future coordination with the public on congestion relief for remaining portions of I-495 and I-270.
12	General		MDOT SHA's approach to phasing the Project does not adequately account for local transportation issues, changing travel demands, changes expected to occur over time within a particular census of natural resources, and the explicable constraints on I-495 and I-270 in Montgomery County. It also fails to account for Prince George's County's land use and transportation plans, such as the development of the University of Maryland Capital Region Medical Center off of I-495.	See response to comment #11.

No.	M-NCPPC Department	Reference	Comment	Response
13	General		The DEIS fails to satisfy the burden imposed on projects that impact parkland and other protected areas, including those protected by the CCA.	<p>The SDEIS and now the FEIS details impacts associated with the Preferred Alternative on resources both within/outside of parkland and temporary/permanent impacts. MDOT SHA has coordinated final mitigation with Officials with Jurisdiction (OWJ) and commitments made as part of this coordination are included in this FEIS. While coordination with OWJ's on mitigation for unavoidable impacts is required, approval of final mitigation is the responsibility of the lead federal agency, FHWA.</p> <p>MDOT SHA has coordinated with M-NCPPC regarding mitigation and the agreed-upon mitigation is detailed in the FEIS and Final Section 4(f) Evaluation.</p>
14			The appropriate time to identify avoidance and mitigation measures is before eliminating reasonable alternatives that have fewer environmental impacts than the retained alternatives. NEPA requires—and courts have recognized—that agencies must take a “hard look” at impacts to sensitive resources throughout the environmental review process, even prior to rejecting alternatives.	FHWA and MDOT SHA are confident that the I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives and the environmental impacts. As required by the CEQ NEPA regulations, the DEIS, SDEIS and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study and the Preferred Alternative to a comparable level of detail. This analysis directly contributed to the evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts cannot be avoided.
15			In light of the potential traffic relief benefits from the MD 200 Diversion Alternative and the fact that it would not impact Section 4(f) properties, the Lead Agencies should have advanced the alternative for additional review and analysis along with the Alternatives Retained for Detailed Study and weighed its pros and cons when compared to the other Build Alternatives.	<p>Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the Study's Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed TSM/TDM measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has adequate capacity to accommodate the potential for diverted traffic, it was anticipated that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.</p> <p>Traffic analysis was performed using the same key traffic metrics applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput; and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Diversion Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. In fact, the MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. Moreover, the preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the state of approximately \$310 million. See response to comment #6 and refer to Chapter 9, Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.</p>
16	General		The DEIS is inconsistent with Section 106 of the National Historic Preservation Act.	MDOT SHA and FHWA have developed the Study in compliance with Section 106 of the National Historic Preservation Act and have developed a Programmatic Agreement that identifies ongoing identification, avoidance, minimization and mitigation of historic properties in consultation with the SHPO, Advisory Council on Historic Preservation and other interested parties. Refer to FEIS, Chapter 5, Section 5.7 and FEIS, Chapter 9, Section 9.3.4.C.

No.	M-NCPPC Department	Reference	Comment	Response
17			The Lead Agencies have not finished identifying archaeological sites and historic cemeteries as required under Section 106 and is delaying that action for some properties. Additionally, MDOT SHA’s decision to consider M-NCPPC park units discretely rather than as a unit fails to take into account the historic significance of the park system.	See response to comment #16. MDOT SHA has completed historic properties inventory on all accessible property. A small amount of archaeological work (inventory and Phase II) is slated to be completed under the Programmatic Agreement, Section 106 specifically allows both Phased Identification 36 CFR 800.4(b)(2) and 36 CFR 800.14(b).
18			The DEIS fails to consider the non-auto driver mode share metric. Non-Auto Driver Mode Share (“NADMS”) (meaning percentage of commuters who travel to their worksite by means other than a single-occupant vehicle) is a performance metric incorporated into many Montgomery County planning documents. The metric correlates with air-quality impacts, and is thus an important proxy for comparing alternatives with respect to impacts. The DEIS does not directly address how the project will impact this metric or how its negative impacts to Montgomery County’s planning goals will be mitigated. The metric’s exclusion is also a direct consequence of the narrowly drawn Purpose and Need Statement that precluded serious consideration of transit.	<p>MDOT SHA identified five key needs related to this underlying purpose: (1) accommodate existing traffic and long-term traffic growth; (2) enhance trip reliability, (3) provide additional roadway choices, (4) accommodate homeland security, and (5) improve movement of goods and services.</p> <p>While the Preferred Alternative, <i>supports</i> the NADMS performance metric by including HOT lanes, which promote the use of non-SOV vehicles by providing a toll-free, reliable trip for HOV 3+ vehicles, including carpool/vanpool and transit buses and includes commitments for bicycle, pedestrian, and further transit improvements to encourage multimodal travel, the needs for the study are broader and served as the metrics by which the alternatives were compared and screened.</p> <p>See Chapter 3, Section 3.1.4 for transit-related elements and Section 3.1.5 for pedestrian and bicycle facilities associated with the Preferred Alternative.</p>
19	General	4.21	Social Equity/Environmental Injustice - The Lead Agencies do not sufficiently address impacts to low-income and minority populations as required under NEPA and other authorities. First, the Lead Agencies state that they will consider Title VI impacts to communities when they select a Preferred Alternative in the FEIS. However, this approach acknowledges what is already evident—that the Lead Agencies are eliminating alternatives that have fewer impacts on minority and low-income populations, and ultimately will be left with an alternative that can generate the most toll revenues without regard to environmental justice impacts.	<p>The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on Environmental Justice (EJ) and NEPA (2011).</p> <p>Refer to Chapter 9, Section 3.4.D for a response to Environmental Justice and equity concerns.</p>

No.	M-NCPPC Department	Reference	Comment	Response
20			<p>While the Lead Agencies acknowledge that the Build Alternatives they are considering will require the taking of minority and low-income residences and businesses, they suggest that this effect is counterweighed by the fact that everyone will benefit if highway congestion is alleviated. The Lead Agencies state that “while travel speed and trip reliability benefits offered by the tolled lanes could be a less feasible choice for [environmental justice] populations due to cost burdens, under any of the managed lanes alternatives, all existing GP lanes would remain toll-free and would undergo some travel time improvements.” By failing to consider design or operational strategies that would eliminate or reduce the number of homes, businesses and community amenities affected by the Project and/or allow equitable access to the managed lanes, the Lead Agencies have created another layer of inequity. Suggesting that minority and low income persons will benefit from using general purpose lanes, which will inevitably have more congestion than the managed lanes, is a direct acknowledgement of inequality. Rather, MDOT SHA could consider options like adding or modifying access locations that would serve environmental justice communities based on specific origin/destination analyses and/or developing a toll subsidy program. More detailed information is needed as part of the Environmental Justice evaluation to help determine the appropriate mitigation to address the inequities to these environmental justice communities.</p>	<p>MDOT SHA and FHWA selected a Preferred Alternative that avoids all residential and business displacements. Impacts to EJ populations (block groups) have been substantially reduced due to the selection of the Preferred Alternative-Phase 1 South. This resulted in a reduction from 55 percent EJ populations to 24 percent EJ populations between the DEIS and the SDEIS/FEIS. Project elements and potential community enhancement measures identified in FEIS Chapters 5 and 7 and the Final Community Effects Assessment/Environmental Justice Technical Report in FEIS Appendix F would further enhance access and mobility in the EJ Analysis Area, and include the following:</p> <p>To ensure equitable access to the managed lanes, MDOT SHA and MDTA are committed to the following:</p> <ul style="list-style-type: none">• Engaging with the EJ populations in advance of implementing the MLS toll program, including education for low-income populations about the tolling program;• Offering easy access to E-ZPass transponders for all members of the community;• Accommodating multiple options to replenish transponders using cash, check, credit card or money order by visiting one of MDTA’s conveniently located E-ZPass Maryland Customer Service Centers (CSCs). Customers can also drop off check or money order payments 24/7 in designated drop boxes outside CSCs at an MDTA toll facility or mail their check or money order to MDTA.• Provide a continuous sidewalk along the southside of Seven Locks Road between the Gibson Grove Church and the historic entrance to the Morningstar Moses Hall Cemetery <p>Based on the EJ Engagement Initiatives, which identified priorities for more or improved sidewalks and bicycle facilities; better lighting on streets and sidewalks; and traffic calming measures to make streets safer, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:</p> <ul style="list-style-type: none">• Identify locations where safer pedestrian crossings on major state roadways are needed.• Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, adding or upgrading ADA ramps are needed.• Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

No.	M-NCPPC Department	Reference	Comment	Response
21	General	Alternative Mode of Transportation	<p>As discussed above, the DEIS does not adequately address alternative modes of travel. First, the DEIS did not discuss or analyze whether or how to bring transit across the Woodrow Wilson Bridge, which was designed and built to accommodate light rail at significant cost to the State of Maryland.</p> <p>Second, there is no indication or commitment by the Lead Agencies to design the improvements to the American Legion Bridge to structurally accommodate light rail, whether now or in the future (as was done with the Woodrow Wilson Bridge), which is particularly alarming given the 50-year term proposed for the Project’s private partner.</p> <p>Third, the Build Alternatives should include consistent bike and pedestrian crossing in their designs for better connectivity to transit and to break down the barriers to the local communities created by I-495 and I-270. While the Lead Agencies have made representations that it will include some crossings in the Project, the firm selected to design, build and operate the Project likely will have discretion as to if and how it includes the crossings in the final design.</p>	<p>The I-495 & I-270 MLS study limits were based on an evaluation of logical termini and independent utility. The study limits terminated in Prince George's County just west of MD 5 which is a major east/west roadway. Therefore, the Woodrow Wilson Bridge was never within the limits of the Study.</p> <p>In consideration of the comments received, MDOT SHA commits to designing and constructing the ALB such that a future capital improvement project will have one or more feasible options to achieve the full design and implementation of a transit line across the ALB. These options will be enabled by designing the northbound and southbound structures to not preclude a possible future transit line including the addition of foundation and substructure elements.</p> <p>Unlike the Woodrow Wilson Bridge, however, the nearest Metro stops are not close to the ALB. Additionally, there has never been a regional planning study that approved the viability or practicality of rail on the ALB, partially due to the need for a higher density of households and jobs to support it. Transit across the ALB is not part of the region’s Constrained Long-Range Plan (Visualize 2045), Montgomery County or Fairfax County master plans, or VDOT’s plans for this corridor. Also, there is no existing right-of-way that could be used for rail transit on either side of the Potomac River. In order to attract sufficient ridership, a rail line along a new alignment adjacent to the ALB would need to connect to one of the Bethesda area WMATA stations to connect to the rest of the rail network. Such a new alignment would likely result in substantial residential and commercial property displacements that have been completely avoided under the Preferred Alternative and would cause substantially more impacts to nationally significant National Park Service property and environmentally sensitive resources along the Potomac River Gorge than the Preferred Alternative.</p> <p>The Preferred Alternative reflects a strong commitment to bicycle and pedestrian connectivity and mobility in the study area in response to comments received throughout the NEPA process. Refer to FEIS Chapter 3, Section 3.1.5. Existing pedestrian and bicycle facilities impacted by the Preferred Alternative would be replaced in kind or upgraded to meet current master plans for recommended facilities. In addition, new pedestrian and bicycle facilities identified in those plans would be constructed where adjacent connections exist. These efforts respond directly to the Purpose and Need goal of enhancing multi-modal connectivity by removing barriers to non-vehicular mobility and comments received from local agencies and stakeholders.</p> <p>Regarding the accommodation of transit on the American Legion Bridge and bicycle/pedestrian improvements, refer to Chapter 9, Section 3.3.D for a response to Analysis of Alternatives Retained for Detailed Study.</p>

No.	M-NCPPC Department	Reference	Comment	Response
22	General	Stormwater Impacts	The DEIS states that the Lead Agencies will provide stormwater treatment for 12.5 percent of existing roadways, based on MDOT SHA requirements (50 percent) and the amount of roadway that will be reconstructed (25 percent). This level of treatment is inadequate. Runoff from decades of highway use has caused significant degradation to downstream waterways and local infrastructure. Repairing the storm drains is not mitigation, it is deferred maintenance. The Lead Agencies classified some streams in the Commission's parks as less than "high" quality primarily because of degradation caused by lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls. MDOT SHA cannot use the degradation it caused to suggest that less mitigation is needed. Furthermore, the stream features listed as medium quality should be treated in the same way as the high quality resources are treated in relation to the on-site mitigation approach (0:1 on-site mitigation credit). The highly urbanized nature of the Project area must be accounted for and the ecosystem functions that these resources (which have extremely high functional value considering the surrounding land use and extensive impervious drainage areas) must be appropriately mitigated. Two specific examples listed as "medium" quality are the Cabin John Creek mainstem and Sligo Creek mainstem, which are critically important to sustaining ecological function within their respective urbanized landscapes. Channels with a medium and high functional value are anticipated to be degraded as a result of construction and will have significantly lower function and value following construction and would therefore require full off-site mitigation where impacts cannot be avoided.	MDOT SHA preliminary SWM concepts meet MDE requirements and regulations which require 100 percent of new impervious area and 50 percent of reconstructed impervious area to be treated. The Developer/MDOT SHA will be required to follow the MDE 2000 SWM Manual. If additional existing impervious area is reconstructed it will be treated at the required 50 percent. Through continued avoidance and minimization measures, the need for SWM both on and off-site has significantly reduced since the DEIS. These efforts continued and the needs, especially for off-site, decreased since the SDEIS. Mitigation for all unavoidable waterway impacts was determined through the Maryland Stream Mitigation Framework (MSMF), as required by the US Army Corps of Engineers (USACE) and Maryland Department of Environment. Stream assessments were completed for every stream channel within the Preferred Alternative LOD using standardized, quantitative methods determined by USACE. Please see the Compensatory Wetlands and Waterways Mitigation Plan for details on these assessments and the application of the MSMF to this project (FEIS, Appendix O). The MLS will not only be addressing its addition of impervious surface but also a portion of past development. Contributing to the water quality issues in the region are development permitted by the County. While some of the storm water management proposed is off-site, it's near to or within the 8-digit watershed of this project providing needed benefit to that watershed.
23	Montgomery Parks	DEIS-General	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations, and for this commitment to be reflected in the FEIS.	Noise barriers are currently proposed in all areas where a barrier is warranted due to noise impacts and has been determined to be reasonable and feasible according to MDOT SHA's noise policy. A noise barrier extension is warranted for the portion of Cabin John Stream Valley Park along the inner loop of I-495, identified as part of NSA 1-04. Noise barriers are not reasonable for Cabin John Regional Park (identified as NSA 5-28) or the portion of Cabin John Stream Valley Park located along the outer loop of I-495 (identified as part of NSA 2-01), although this parcel will be partially protected by a proposed barrier extension.
24	Montgomery Parks	DEIS-General	The finalization of an LOD without consideration of Park-owned property more closely in terms of both stable outfall design and on-site stormwater opportunities is not acceptable. In our detailed review, Parks has identified several locations in which the current LOD does not reflect existing conditions in terms of stable stream and outfall transitions and onsite stormwater opportunities. In the FEIS and ROD, MDOT SHA needs to clearly define the process for LOD modifications moving forward. Specifically, how the P3 will be permitted to expand the LOD as needed during detailed and final design to accommodate these features.	MDOT SHA agrees that providing stable outfalls and onsite stormwater management is essential and has continued to work with M-NCPPC to identify appropriate locations for outfalls and stormwater. Between the DEIS and FEIS, MDOT SHA and M-NCPPC held several virtual office meetings and field meetings to review the LOD and M-NCPPC comments. Suitable locations for outfall stabilization or stormwater have been incorporated into the LOD; locations requested by M-NCPPC that were not incorporated into the LOD were discussed at coordination meetings and agreed upon. See response to comment #5 for the process for LOD modifications.
25	Prince George's Planning	DEIS-General	There was no mention of the Prince George's County Green Infrastructure functional master plan designations. Was it considered? Possible mitigation? Here is a link to the Prince George's County, Countywide Green Approved Infrastructure Plan for inclusion in the FEIS: http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan .	The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	M-NCPPC Department	Reference	Comment	Response
26	Prince George's Planning	DEIS-General	The new Zoning Ordinance in Prince George's County is scheduled to be implemented via a countywide map amendment process that will begin in November 2020 and conclude by June 2021. Information may be found here: http://zoningpgc.pgplanning.com/ .	Thank you for this information. Note that the Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.
27	Prince George's Planning	DEIS-General	While the reduced MSAT and GHG emissions are expected to decrease based on the improved fuels and vehicle technologies, how does the increased use of the highway play into this factor? Higher numbers of cars, even if they are more efficient would potentially have a negative impact that could negate the better technology.	The EPA MOVES model, which was used in the air quality analysis to quantify vehicle emissions for MSAT and GHG, uses project specific traffic data including vehicle miles travelled (VMT). Therefore, the emissions estimates in the air quality analysis accounts for any increase in VMT associated with the project.
28	Prince George's Planning	DEIS-General	Table 2.7-2 in the NETR does not identify the impacts of the Forest Conservation Act in Prince George's County. Is it because our layer is incomplete?	The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.
29	Prince George's Planning	DEIS-General	While SHA verified no impacts to the solar array near Manchester Park but what about impacts to the existing private mitigation bank in the area?	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts to Manchester Park have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
30	Prince George's Planning	DEIS-General	Specifically in Appendix E, page 23 there is no mention of Plan2035 – the comprehensive plan for guiding future development within Prince George's County. Some references to this document in the DEIS is necessary.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts within the County have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
31	Prince George's Planning	DEIS-General	While we don't want to encourage segmentation, it is hard for the average citizen to read and understand the document as it is currently written. Is there a way to relay the information in a manner that clearly identifies information for both counties? The DEIS and Technical reports are voluminous and hard for the average citizen to understand how the project impacts their local area.	As previously noted, the Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. The remaining impacts presented in the SDEIS and FEIS are shown in total for the Preferred Alternative and also where applicable the impacts are differentiated between Maryland (all Montgomery County) and Virginia (Fairfax County).
32	Prince George's Planning	DEIS-General	MNCPPC, Department of Parks and Recreation will require forest restoration to the extent practical. Please note that the Maryland Reforestation Law is inadequate for urban areas and does not take into account the lack of forest areas for mitigation in heavily urbanized areas. MNCPPC does not consent to tree mitigation outside of the immediate project impact area. MNCPPC requests an accommodation within the spirit of this law to add the Street Trees Program as reforestation mitigation and as mitigation for impacts to EJ areas.	MDOT SHA has identified forest mitigation to meet the requirements of the Maryland Reforestation Law. MDOT SHA asked DNR Forest Service whether street tree planting and/or canopy tree replacement could be used as Reforestation Law mitigation. DNR FS responded that street tree mitigation does not meet Reforestation Law requirements for forest mitigation for forest loss. This project is subject to Maryland Reforestation Law, since it is a linear highway project that involves impacts to over one acre of forest. Individual tree surveys were conducted on M-NCPPC Montgomery County parks. Tree mitigation on site will be done to the maximum extent practicable and within park property will continue to coordination with M-NCPPC.
33	Prince George's Planning	DEIS-General	While not segmentation, identification of the impacts to the Prince George's County Department of Parks and Recreation. Perhaps a line to identify MoCo (495 and I-270) and Prince George's parks (Table 2-1p 23 of App F – draft 4(f).	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts to County parkland have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	M-NCPPC Department	Reference	Comment	Response
34	Prince George's Planning	DEIS-General	Cherry Hill Park is deed restricted for recreational use only. Any other use requires approval by the Secretary of the Interior. If M-NCPPC were in favor of converting a portion (south of the northernmost 100') of Cherry Hill Road Park to stormwater management in support of the managed lanes project / I-495 widening, we would need to apply to the Department of Interior's National Park Service to amend our 1976-1978 applications, and Department of the Interior would have to agree in writing. We disagree that Department of the Interior's review of the managed lanes project under Section 4(f) would constitute Department of the Interior's approval of use of a portion of Cherry Hill Road Park for stormwater management, as we would not have submitted the required amendments to our 1976-1978 applications and because the 4(f) review is likely done under a different part of Department of the Interior than National Park Service.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Cherry Hill Park and Cherry Hill Road Park are located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
35	Prince George's Planning	DEIS-General	Carsondale (PG:73-36) Agree with NRHP eligibility under Criterion A and that the community will be adversely affected by construction. Although there will be no impacts to contributing dwellings, the LOD includes portions of rear yards, some secondary structures. Agree with the report's conclusions that there will be multiple impacts to contributing resources that will result in a cumulative diminishment of the community's integrity of setting and design. Historic Preservation staff concurs that Carsondale is eligible for listing in the NRHP and that adverse impacts will occur.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Carsondale is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
36	Prince George's Planning	DEIS-General	Area AN-6 – Paint Branch Fish Passage – South Farm BARC. The area has high potential to contain archeological resources based on prior sites recorded close to the proposed LOD. Historic Preservation staff concurs that this area has a high probability of containing archeological resources and recommends a Phase I survey.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Area AN-6 - Paint Branch Fish Passage - South Farm is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
37	Prince George's Planning	DEIS-General	Area AN-7 – Paint Branch – South Farm. This area has a high potential to contain archeological resources. Historic Preservation staff concurs that archeological site 18PR113 should be evaluated by conducting Phase II investigations and that areas not previously surveyed should be investigated.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Area AN-7 - Paint Branch - South Farm is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
38	Prince George's Planning	DEIS-General	Area PA-1 – Back Branch – Agree that high potential area along the Chesapeake Beach Railway, 18PR605, should be further investigated.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Area PA-1 - Back Branch is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
39	Prince George's Planning	DEIS-General	Historic Preservation staff have major concerns about the impacts of I-495/I-270 expansion project on the Greenbelt National Historic Landmark (PG:67-04-00). There will be major impacts from the construction proposed at the Greenbelt Road (MD 193) interchange, the Southway interchange, and to the Walker Family Cemetery at the north end of the Golden Triangle subdivision. Other significant properties that will be impacted include the Greenbelt National Guard Armory (PG:67-36), Greenbelt Park (PG:67-69), the Baltimore- Washington Parkway (PG:69-20) and the Beltsville Agricultural Research Center (PG:62-14). This includes visual impacts, increased pollution, and noise. An estimated 69.3 acres of Greenbelt Park will be affected by construction.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Greenbelt National Historic Landmark and other significant properties mentioned are located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	M-NCPPC Department	Reference	Comment	Response
40	Prince George's Planning	DEIS-General	Historic Preservation staff has major concerns about impacts to the Glenarden National Register Historic District (PG:72-26 & PG:73-26). The proposed widening will have significant impacts on existing structures and the gap between the two sections of the district will be further widened.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Glenarden National Register Historic District is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
41	Prince George's Planning	DEIS-General	The updated maps indicate that the LOD for Option 10 will go through the center of a slave cemetery near the New Carrollton Metro Station that has not yet been documented. This site needs to be further investigated to determine the extent of the burials and to be formally documented. All efforts should be taken to avoid impacts to this site and any burials.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the slave cemetery near the New Carrollton Metro Station is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
42	Prince George's Planning	DEIS-General	Document details and analysis need to be shown by County and/or by Phase/Segment. Information is too dense for the average reader to determine impacts by local area.	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Therefore, separate details and analyses by County are not necessary.
43	Prince George's Planning	DEIS-General	DEIS lacks Stormwater Management analysis. Assumptions based on replacement of in-kind facilities built prior to urbanization is unrealistic and inadequate.	Extensive study of SWM was completed alongside the DEIS as detailed in Chapter 2 and the SDEIS as detailed in Chapter 2, Section 2.3.2. This effort was also updated concurrently with the development of the FEIS and a more detailed SWM analysis is included with the FEIS. Refer to the Chapter 3, Section 3.1.6 for a summary of the SWM analysis completed as part of the FEIS. Note that this project will not simply replace facilities in-kind. It will meet the current Maryland Stormwater permitting requirements, which require an evaluation based on the land use changes being proposed as part of the project. Refer to FEIS Chapter 9, Section 4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management.
44	Prince George's Planning	DEIS-General	Please provide updated traffic analysis that models a telework option for former commuters.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the Pandemic and teleworking.
45	Prince George's Planning	DEIS-General	MNCPPC requests that MDOT include all permit requirements and mitigation projects and costs in the bid documents for the P-3 Construction Project Developer. Request procedure for change orders during construction to avoid costly project issues like the Purple Line is experiencing.	The Phase 1 Agreement requires the Developer to comply with all NEPA commitments and permit and mitigation requirements. The Technical Provisions outlined the anticipated permit requirements and the known mitigation projects/requirements and refers to the FEIS/ROD and final authorized permits for the final requirements, commitments, and conditions. The Section P3 Agreement, which will be executed for Phase 1 South following the ROD, includes procedures for the Developer to handle changes in project scope and field conditions.
46	Prince George's Planning	DEIS-General	Mitigation triggers need to be implemented. For example, By the 15 mile xx linear feet of stream restoration needs be completed and 10% of the forest mitigation will be completed. The mitigation strategy should reflect thoughtfully phased development instead of disturbing all 25 miles of Beltway in our County at once.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the 25 miles of Beltway in Prince George's County is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	M-NCPPC Department	Reference	Comment	Response
47	Prince George's Planning	DEIS-General	Limits of Disturbance Adjustments – MNCPPC needs to be positioned to be able to request and review changes to the LOD as the project progresses to ensure minimization of impacts to resources and the use of best construction methods to be implemented.	MDOT SHA and the Developer will continue to coordinate with M-NCPPC through the design and construction, including any changes to the LOD. The process for this coordination will be included in the Memorandum of Understanding between MDOT SHA and M-NCPPC.
48	Prince George's Planning	DEIS-General	Lack of data on impacts to arterial roads and local roads.	Refer to Chapter 9, Section 3.4.B for a response to traffic modeling and analysis.
49	Prince George's Planning	DEIS-General	Prince George's County Non-Auto Driver Mode Share Goals (NADMS)	See response to Comment #18.
50	Prince George's Planning	DEIS-General	Will there be a COVID assumption incorporated into the modeling for both the impacts from teleworking and the impacts of reduced use of public transit?	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the Pandemic and teleworking.
51	Prince George's Planning	DEIS-General	Incorporate Social Justice concerns into analysis and mitigation requirements.	Refer to Chapter 9, Section 3.4.D for a response to Environmental Justice and equity concerns.
52	Prince George's Planning	DEIS-General	Utilize Street Trees Program as part of mitigation of impacts of Environmental Justice communities. Potential to increase tree canopy in Equity Emphasis Areas	The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Additionally, see response to Comment #32.
53	Prince George's Planning	DEIS-General	Environmental Justice should include a consideration of whether the projected transportation benefits address Environmental Justice concerns. I-495 and I-270 are regional interstate facilities serving as major freeways within Montgomery and Prince George's Counties. There is a need to conduct a detailed Environmental Justice evaluation on the transportation benefits of the Alternatives. While managed lanes can provide benefits for both the managed lanes and the general purpose lanes, there is no evaluation in the DEIS on who is benefitting and to what extent. There is a need to assess whether any of the Alternatives address equity/environmental justice concerns.	The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on Environmental Justice (EJ) and NEPA (2011). Pursuant to Title VI of the Civil Rights Act, FHWA and EPA reviewed the Study efforts to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion. Refer to Chapter 9, Section 3.4.D for a response to Environmental Justice and equity concerns.
54	Prince George's Planning	DEIS General	Currently, within the Community Effects Analysis Area, the minority population percentage for Prince George's County was 86%. - Tables within the Environmental Justice section of the EIS must be broken down by individual County impacts. - The Community Effects Analysis data must be broken down by County, Minority Population, Low-Income Population, and population areas of Limited English Proficiency in the Executive Summary. - Project document must demonstrate specifically how this project benefits the communities within Prince George's County that have minority or low-income populations. - Project document must demonstrate specifically how this project does not disproportionately affect the health or environment of minority or low-income populations. Currently, the analysis appears to indicate that only relocations were considered as impact factors. Was impact to local roads considered in the analysis? Was improved access to Environmental Justice populations for either interchanges or increased public transit options analyzed? - Project document must include specific efforts/outcomes/comment resolutions to show the Environmental Justice communities were proactively provided meaningful opportunities for public participation in project development and decision-making. - Environmental Justice mapping in the Community Effects and Environmental Justice Analysis is extremely difficult to read due to size and level of detail. Please provide more localized detail mapping in the document.	See response to comment #53 and refer to Chapter 9, Section 3.4.D for a response to Environmental Justice and equity concerns.

No.	M-NCPPC Department	Reference	Comment	Response
55	Prince George's Planning	DEIS- General	Has an Environmental Justice specific analysis been performed on the public involvement efforts noted in the of the Community Effects Assessment and Environmental Justice Analysis to determine the percentages of minority, low-income, and limited English Proficiency populations participation in the public involvement efforts?	<p>At each public meeting, a voluntary demographic survey was available for attendees to voluntarily provide their data. Survey results from attendees of the DEIS Virtual and In-Person Public Hearings and SDEIS Virtual Public Hearing are provided in Chapter 4, Section 4.21 of the DEIS and Chapter 5, Section 4.4 of the Community Effects Assessment and Environmental Justice Analysis Technical Report (FEIS Appendix F). Those who voluntarily responded generally tended to be older white persons. However, due to the voluntary nature of the survey and the small sample size, the results of the survey may not accurately represent the demographics of all the Virtual Public Hearing attendees.</p> <p>MDOT SHA implemented a robust plan to meet and exceed federal policies and best practices for outreach to and engagement with EJ communities within and adjacent to the study area. In addition to the overall efforts to encourage public participation in the Study documented in FEIS Appendix R, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. Refer to FEIS Chapter 5 Section 5.21.5 and Appendix H of FEIS Appendix F for EJ-focused outreach efforts conducted for publication of the DEIS, SDEIS, and FEIS. Refer to Chapter 9, Section 3.4.D for a response to general Environmental Justice and equity concerns.</p>
56	Prince George's Planning	DEIS-General	The DEIS (FEIS and ROD) must contain a plan on how MDOT and the concessionaire will meet avoidance, minimization and mitigation requirements, including regulatory (404), parkland mitigation and parkland enhancements.	MDOT SHA has coordinated with M-NCPPC regarding mitigation and parkland enhancements and the agreed-upon mitigation is detailed in the FEIS, Chapters 5, 6 and 7 and Appendix G- Final Section 4(f) Evaluation.
57	Prince George's Planning	DEIS-General	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project.	MDOT SHA coordinated with M-NCPPC between the DEIS and the FEIS regarding compensatory wetlands and waterways mitigation to ensure they have had an opportunity to participate in the mitigation process and provide comments on the draft and final Compensatory Wetlands and Waterways Mitigation plans.
58	Prince George's Planning	DEIS-General	The ratio for mitigation should be increased the further away from the project the mitigation gets.	MDOT SHA will meet the wetlands and waterways mitigation requirements of the US Army Corps of Engineers and MDE and the mitigation ratios required therein. Waterway mitigation is based on the Maryland Stream Mitigation Framework, which determines a function based mitigation requirement for streams. Wetland mitigation ratios are set by classification of the wetlands impacted.
59	Prince George's Planning	DEIS-General	Utilize Street Tree Program to increase Tree Canopy as Reforestation mitigation. Reforestation Law does not take into account heavily urbanized areas. MNCPPC prefers to add tree mitigation within the project impact area. Can we expand the mitigation to include County ROW? Tree Canopy as SWM has previously been approved for SWM credit over impervious area. County Resolution? Use Tree Canopy as a % of the mitigation in Urban Areas? Utilize MD Roadside Tree Law?	<p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Additionally, see response to Comment #32.</p>
60	Prince George's Planning	DEIS-General	What is the status of the Site Search Report for Tree Planting opportunities?	The Reforestation Law Mitigation Site Search Report was submitted to DNR Forest Service for review on October 16, 2020 and comments were received back on January 6, 2021. In response to House Bill 0091 being enacted and with the selection of the Preferred Alternative, MDOT SHA prepared and submitted an Addendum to the Site Search Report on September 8, 2021 for MDNR's review.
61	Prince George's Planning	DEIS-General	Mitigation should have a nexus to both the impact and use of the resources.	Agreed. Wetlands and waterways mitigation proposed has a nexus to both the impact and the use of the resources. Waterway mitigation is based on the Maryland Stream Mitigation Framework, which determines a function-based mitigation requirement for streams. Wetland mitigation ratios are set by classification of the wetlands impacted, but function and value replacement is also factored in to the required mitigation.
62	Prince George's Planning	DEIS-General	Parkland impacted by the project must be replaced at an equal or greater natural, cultural and/or recreational value at a qualitative level, and therefore parkland replacement mitigation may exceed acreage impacted by the project.	See response to Comment #56.

No.	M-NCPPC Department	Reference	Comment	Response
63	Prince George's Planning	DEIS-General	Mitigation for this project must be meaningful and create non-automobile connection. Preferred mitigation is to complete all of the trail crossings that connect the Beltway communities on both sides of the Beltway.	Regarding pedestrian and bicycle mitigation, refer to Chapter 9, Section 3.3.D for a response to Alternatives Retained for Detailed Study.
64	Prince George's Planning	DEIS-General	For mitigation projects, a specific list of mitigation projects linked to impacts should be agreed upon in the Contract between P-3 and the Developer. We request 30% construction drawings prior to FEIS/ROD in order to review for impacts and mitigation. This may be provided in connection with a Mandatory Referral review at 30% design.	MDOT SHA has coordinated with M-NCPPC regarding mitigation and parkland enhancements and the agreed-upon mitigation is detailed in the FEIS, Chapters 5, 6 and 7 and Appendix G-Final Section 4(f) Evaluation. Additionally, MDOT SHA has taken Mandatory Referral into consideration in the project schedule and will present to the Commission at the appropriate time.
65	Prince George's Planning	DEIS-General	Mitigation projects should be clearly shown. Please show proposed impact and associated mitigation projects by County. Consideration of continuous bicycle and pedestrian facilities along and across the project boundaries helps with connectivity.	See response to Comment #56 on mitigation. See response to Comment #42 on information by County. Regarding pedestrian and bicycle mitigation, refer to Chapter 9, Section 3.3.D for a response to Alternatives Retained for Detailed Study.
66	Prince George's Planning	JPA	The Joint Permit Application fails to follow MDE Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application.	MDOT SHA has coordinated closely with USACE and MDE regarding the requirements of the Joint Permit Application and the initial JPA package submittal met all requirements of a complete permit application. The final revised JPA package, FEIS Appendix P, also meets all requirements of a complete permit application.
67	Prince George's Planning	JPA	The JPA and impact plates do not detail if the impacts are Permanent or Temporary. Are all impacts to wetlands and waterways assumed to be Permanent?	In the initial draft of the JPA and impact plates, temporary and permanent impacts had not yet been determined and so all impacts were assumed to be permanent. In the revised JPA package, FEIS Appendix P, temporary and permanent impacts are shown on the impact plates and included in the impact tables.
68	Prince George's Planning	JPA	The JPA and impact plates do not identify the property boundaries and adjacent property owners.	MDOT SHA coordinated with MDE to provide an online mapping tool to show all property boundaries and MDOT SHA submitted a complete list of all adjacent property owners to MDE and notified all adjacent property owners. It was agreed that review of online mapping showing property boundaries is more effective for such a large project. The public was directed to an on-line mapping tool hosted on the project's website to review the project relevant to their specific property concerns.
69	Prince George's Planning	JPA	The JPA and impact plates do not show the distance of all proposed structures to all contiguous property lines and any appropriate County or State property line building restriction setbacks, rights-of-way and/or easements.	MDOT SHA coordinated with USACE and MDE and determined that property lines, set-backs, rights-of-way and easements should not be shown on the permit plates for clarity and in recognition of the completely independent ROW process MDOT SHA will follow at the conclusion of NEPA.
70	Prince George's Planning	JPA	The JPA and impact plates do not show a plan view depicting existing and proposed conditions and structures. All plan view sketches should include, but are not limited to: north arrow; existing and proposed contours and/or grades; limit of surface water areas; ebb and flow direction of all water bodies (e.g., streams, tidal waters); applicant name and address; all horizontal dimensions of all proposed structures and impacts, existing conditions of the project site which includes all existing structures at or near the project site including neighbors; existing areas of wetland vegetation or mapped wetlands and buffers; the project boundary and a boundary demarcating the limits of disturbance. A section view showing existing and proposed conditions and structures.	The impact plates do show a plan view depicting existing and proposed conditions and structures and all of the elements listed in this comment.
71	Prince George's Planning	JPA	The JPA and impact plates do not show description of construction access and methodology and a proposed construction schedule, with an estimated completion date.	These elements are not included in the JPA and impact plates. Construction access is included in the Preferred Alternative LOD. A construction schedule has not yet been determined, but once it has, the Developer will share the schedule with the regulatory agencies. Similarly, once construction plans have been developed by the Developer, they will be submitted to the regulatory agencies for review and approval prior to any impactful construction activities.
72	Prince George's Planning	JPA	The JPA and impact plates do not show a description of stabilization for temporary impacts.	These elements will be included in the construction plans provided to the regulatory agencies by the Developer prior to construction.

No.	M-NCPPC Department	Reference	Comment	Response
73	Prince George's Planning	JPA	The design of the JPA and impact plates submitted for this project makes it extremely difficult to accurately review the quantity and type of impacts for each location. Please revise the impact plate section to include the relevant impacts on the adjacent/or previous page so one may view the list of impacts that are shown on the Plate with the actual Plate itself. Currently, one has to search for the plate, the impact quantities, the Wetlands and Waterways Features Table, the Impact ID Designation Key, and the Wetland Delineation Data Sheets in multiple separate locations.	The current arrangement of information in the JPA with separate impact plates, and tables for USACE and MDE impact quantities has been developed in coordination with USACE and MDE and will not be changed. Including the wetland delineation feature table and datasheets in a separate document is standard practice and will not be changed. A detailed impact narrative by station and impact plate is provided in the Avoidance, Minimization, and Impacts Report, FEIS Appendix N) to aid the reviewer in understanding the impacts shown on the impact plates.
74	Prince George's Planning	JPA	The JPA fails to address or display stormwater management design including retrofitting or replacement of existing culverts and bridges, existing stormwater management flooding issues, Erosion and Sediment Controls, construction access, staging, grading, and materials storage. We understand that all of these items are assumed to be contained within the LOD, but these should all be shown on the impact plates.	The revised final JPA impact plates include the onsite SWM facilities and impacts to wetlands and waterways by the selected offsite SWM LODs. Additional construction details will be provided to USACE and MDE for review and approval prior to impactful construction activities.
75	Prince George's Planning	DEIS-General	The LOD appears to be unrealistic in some locations.	MDOT SHA employed a conservative approach to defining the LOD for all the DEIS Build Alternatives and Preferred Alternative. The LOD represents the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, stream stabilization, and related activities to the proposed roadway and interchange improvements. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. Moreover, the methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance.
76	Prince George's Planning	DEIS-General	The Indirect and Cumulative Effects Report (pg. 59) states that a permit cannot be issued until a detailed compensatory mitigation package, including final mitigation design, is developed and approved by both USACE and MDE. For this project, the Contractor who will be constructing the project will be developing and providing final design for the mitigation component as the Final Mitigation Plan Development. The Contractor has not yet been selected, the mitigation has not been agreed upon yet, and there is not even a preliminary mitigation design. MNCPPC requests that USACE and MDE pause this Joint Permit Application review until a compensatory mitigation package has been developed by the Contractor with MNCPPC input and has been reviewed and approved by MNCPPC for impacts and mitigation associated with MNCPPC properties.	MDOT SHA has provided a detailed compensatory mitigation package to USACE and MDE, including final mitigation design for the compensatory mitigation sites identified to cover the mitigation requirement for this project. The Final Compensatory Wetlands and Waterways Mitigation Plan is provided in FEIS Appendix O.
77	Prince George's Planning	DEIS-General	In lieu of a final compensatory mitigation package provided by the Contractor, MNCPPC requests the Contractor's contract documents stipulate a 10% of total project cost set aside for the design and construction of all mitigation projects and commitments during Phase I of project construction.	See response to Comment #56.
78	Prince George's Planning	DEIS-General	MNCPPC requests that all MDE required and USACE required mitigation sites and privately-owned mitigation bank credits be located within the MNCPPC jurisdictions.	Wetlands and waterways mitigation sites are located in watersheds where the project impacts are occurring in both Maryland and Virginia, as required by federal and state regulation.

No.	M-NCPPC Department	Reference	Comment	Response
79	Montgomery Planning	DEIS-General	The DEIS should reflect the phasing of the project. For a project of this scope that is being implemented in phases with a significant time delay between each phase, Therefore, the NEPA process should be reflective of the approved phasing for development as approved for implementation by a P3. The RPA and its impacts for later phases will be more appropriately determined based on the outcome from earlier phases of development. For example, the outcome of Phase 1 -the Western Corridor may provide relief of the ALB bottleneck more reliably than theoretic modelling for the next Phase of the project.	See response to Comment #11.
80	Montgomery Planning	DEIS-General	Please provide more-detailed volume information for the managed lanes by providing a breakdown of HOV3+, transit, and tolled traffic for each road segment.	The requested information is not available during the planning stage of the project, as it will depend on many factors, including future policy decisions.
81	Montgomery Planning	DEIS-General	The use of a simplistic 45-mph average speed to determine the 1,600 to 1,700 vehicles per hour per lane in the managed lanes was not validated to ensure that the managed lane vehicles would achieve the travel time savings that they are willing to pay. Without this validation, how can we have any faith that the modeled traffic assignments are reasonable? This is supposed to represent a typical average day condition.	The modeling assumes that the managed lane network will operate at average speeds of 45 mph or higher. Per Section 4.1.E in the Traffic Technical Report, volumes in the managed lanes were assigned to provide the maximum throughput while maintaining speeds of at least 45 mph. This threshold occurs when volumes reach approximately 1,600 to 1,700 vehicles per hour per lane in the managed lanes.
82	Montgomery Planning	DEIS-General	The removal of the collector-distributor (CD) lane system along I-270 was included as part of all the proposed Build Alternatives allowed for the proposed lanes to occupy existing paved areas rather than having to further expand the limits of disturbance and potentially increase environmental impacts. This change was made midstream during the Alternative Evaluation stage. M-NCPPC has previously commented that the inclusion of the conversion of I-270 from a local/express system as part of all Alternatives actually hides the incremental benefits of the actions proposed. A separate analysis should have been prepared of Alternative 1 with the local/express system removed to provide this comparison. Not doing this fairly simple analysis leads to the concern that the majority of the transportation benefits on I-270 are due more to the reconfiguration than due to the managed lanes.	The removal of the collector-distributor (CD) lane system along I-270 was included as part of all the proposed Build alternatives in response to public and agency comments during the scoping phase to minimize the limits of disturbance and minimize impacts. Therefore, it is immaterial what the hypothetical incremental benefit of removing the CD lanes alone would provide.
83	Montgomery Planning	DEIS-General	We recognize that simplistic assumptions are sometimes needed, particularly when there are many unknowns; however, we still feel that this critical part of the managed lane system (HOV use) deserves more analysis than presented in the DEIS. How have managed lanes in other jurisdictions fared regarding HOV usage when converting a highway with an HOV lane to a managed lane? There must be some examples in Virginia or Texas? It is pretty clear that the future HOV to be selected will be HOV 3+ given the need for consistent interoperability with the VDOT managed lanes. Why not just assume that? Changing HOV use from 2+ to 3+ can significantly reduce HOV demand, depending on congestion. If anything, this is a conservative assumption, and it would have allowed the analysis to provide meaningful data on how HOV travel would be impacted. So right now, we have no idea whether managed lanes will in fact increase or decrease HOV travel with HOV 3+ cars or shifts to public transit. Please assume HOV3+ and re-run the evaluations by modeling HOV mode choice and present these results.	The decision was made to allow HOV3+ to use the managed lanes toll free and the updated results in the FEIS reflect this decision.
84	Prince George's Planning	DEIS- pg.5, section 1.2.2	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and the Department of Parks and Recreation intends to have site restoration and mitigation for all temporary usage areas. The Department of Parks and Recreation requires land to be returned to the Department's satisfaction. The restoration and mitigation will need to be approved by the Department of Parks and Recreation. A temporary use can, and often does, result in permanent impacts and the Department of Parks and Recreation will review and only permit temporary use after an agreement about proper restoration and mitigation is reached.	See response to Comment #13.

No.	M-NCPPC Department	Reference	Comment	Response
85	Prince George's Planning	DEIS-pg.6	Total wetland impacts acreage seems too low. Please verify.	Wetland impact acreages were correct in the DEIS, however they have been updated to the Preferred Alternative in the FEIS.
86	Prince George's Planning	DEIS- Pg. 6 Table 2-1	Please show impacts by County.	See response to Comment #42.
87	Prince George's Planning	DEIS- Pg. 6 2.1.2	"An assessment of temporary construction impacts will occur in later phases of design". We find this unacceptable as the definition of temporary construction impacts is too open-ended and broad. Please provide specific details at 30% plans level for review."	See response to Comment #5 and FEIS Chapter 3, Section 3.1.8.
88	Prince George's Planning	DEIS-Pg. 7	Please add a paragraph discussing County specific mitigation requirements for parkland beneath the NPS section.	The Final EIS and Final Section 4(f) Evaluation include specific mitigation commitments developed in coordination with the OWJ for each park property impacted by the Preferred Alternative.
89	Prince George's Planning	DEIS-Pg.8	Criteria for elimination of mitigation sites is too strict.	Elimination of mitigation sites is based on USACE and MDE criteria for functional uplift, whether a site is located within the affected watershed, and whether the site would have extensive impacts to existing resources. If a site is determined not to meet the functional uplift required or is not located within the affected watershed, it cannot be considered. MDOT SHA has worked closely with USACE, MDE, EPA, USFWS, and DNR to determine mitigation sites that meet functional uplift requirements and to ensure that the site would not have extensive impacts to existing natural resources, such as forests.
90	Prince George's Planning	DEIS- Pg. 10-11	Forest Conservation areas – criteria for woodland replacement is too strict. Consider replacing trees on the Public ROW. Plant trees in EJ Communities for air quality and noise quality abatement, heat island abatement and for social justice. If the State reviews and finds trees are being removed rather than forest then the tree removal should be mitigated in Public ROW using the Street Trees Program and next generation shade trees in parks in close proximity to the Beltway. Prince George's County is prepared to provide GIS inventory of locations for tree planting.	See response to Comment #32.
91	Prince George's Planning	DEIS- Pg. 11 Table 2.2	Please provide impacts to trees on public land and private land.	In response to a request by M-NCPPC, an individual tree survey was conducted within the corridor study boundary for Montgomery County parks impacted by the Preferred Alternative. The tree impacts on public/private land are included in the FEIS.
92	Prince George's Planning	DEIS- Pg. 12	MNCPPC Prince George's will also require replacement of trees on MNCPPC-owned parkland.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
93	Prince George's Planning	DEIS-Pg. 12	Please add a paragraph discussing the Street Tree Program in Prince George's County.	See responses to Comment #32 and #92.
94	Prince George's Planning	DEIS-Pg. 13	The presence of Federal and State listed species have not been confirmed within the study boundary. Please confirm the presence Federal and State listed RTE species prior to the FEIS/ROD and submit the report to MNCPPC for review.	MDOT SHA has coordinated with USFWS, DNR, and VDCR to identify any federal- or state-listed species within the study boundary. MDOT SHA has conducted bat surveys, RTE plant surveys, and a wood turtle survey to determine species presence within the Preferred Alternative LOD. MDOT SHA completed Section 7 of the Endangered Species Act consultation with USFWS and agreed to a voluntary time of year restriction (TOYR) for tree clearing within a 3-mile radius of the positive detection of Northern Long-Eared Bat within the Phase I South corridor study boundary. MDOT SHA also agreed to a TOYR for tree clearing within the Virginia portion of the Preferred Alternative LOD to protect roosting tri-colored bats. MDOT SHA did not identify any wood turtles within the Corridor Study Boundary. MDOT SHA has agreed to a comprehensive ecosystem restoration plan to address RTE plant impacts on NPS lands within the Preferred Alternative LOD. Refer to FEIS, Chapter 5 for more details regarding federal and state listed species coordination.
95	Prince George's Planning	DEIS-Pg. 14	Please provide survey results for the Butterfly Scorpion Weed to MNCPPC.	The 2020 RTE Plant Survey Report was provided to M-NCPPC.

No.	M-NCPPC Department	Reference	Comment	Response
96	Prince George's Planning	DEIS Pg. 14	Confirmed location NLEB and IB will receive buffer. Don't we need to plant Loblolly Pine as mitigation? provide the results of the bat survey from the 2020 season	The 2020 acoustic bat survey report was provided to M-NCPPC. Loblolly pine do not need to be planted as mitigation. MDOT SHA agreed to a voluntary time of year restriction for tree clearing within the 3-mile buffer of the positive detection location of the Northern Long-Eared Bat within the Phase I South portion of the CSB from May 1 – July 31 of any year.
97	Prince George's Planning	DEIS- Pg. 16 section 2.4.1	MNCPPC administers 2200 acres SVPs. This statement is low. 18,000 acres in PG alone. Please clarify that it is 2200ac of Capper-Crampton SVP PG and MC.	It is not clear what this comment is referring to. MDOT SHA could not find anything on page 16 related to SVPs and there is not a section 2.4.1.
98	Prince George's Planning	DEIS Pg.ES-16 Chapter 5	Please retain the word "significant" when related to parkland so that they qualify for Section 4(f) protection.	All parks and wildlife refuges described in the EIS are assumed to be "significant," therefore qualifying for Section 4(f) protection unless otherwise noted.
99	Prince George's Planning	DEIS Pg. 17-18 section 2.4.2 Table 2.3	Publicly owned parks of build alternatives table should reflect the owner of the parkland. Add comment to denote land acquisition program such as Capper-Crampton Act, Program Open Space, etc.	The Draft and Final Section 4(f) Evaluation identifies parkland impacts by owner. Capper-Crampton Act and Program Open Space are discussed under the Socioeconomic heading.
100	Prince George's Planning	DEIS- Pg. 18	Refer to Appendix F – please include a summary of information here instead of referring away to different section.	Technical reports are incorporated by reference to keep the DEIS more readable and streamlined. As reflected in your different staff reviews, some people stated that the data presented was too detailed and detracted from readability and then some advocated otherwise. The Lead Agencies have sought a balanced approach for the amount of information included in the document.
101	Prince George's Planning	DEIS- Pg. 19	Clarify where the Suburbanization Historic Context Addendum 1961-1980 is provided. Is this a State or Federal document?	The Suburbanization Context was provided to all Section 106 Consulting Parties. It is also located on MDOT SHA's website and is publicly available at this link: https://www.roads.maryland.gov/OPPEN/Suburbanization%20Context%20Addendum_Final-2019.pdf
102	Prince George's Planning	DEIS- Pg. 19	Traffic data baseline year is set to 2017. This baseline is nearly 4 years old. What is the year by year percentage of increase assumption?	It is common in planning studies for baseline data to be based on the available data at the beginning of the Study and therefore, it is the norm that by the time the environmental documentation is completed, a number of years have passed. It is not practical or feasible to update baseline data every year, which would result in an endless cycle. That being said, the MLS has addressed two special cases. 1) The design year was updated from 2040 to 2045 following the DEIS because a new version of the MWCOG regional forecasting model was available and could be incorporated into the FEIS, and 2) COVID-19 significantly changed travel patterns in 2020 and 2021, so the FEIS includes a discussion of how conditions changed and a sensitivity analysis of the projected impacts of potential long-term changes. The projected percent increase in traffic is shown in DEIS, Table 3-2, and ranges between 7% to 17% over 23 years. This comes out to an average year to year increase of 0.3% to 0.7% increase per year.
103	Prince George's Planning	DEIS Pg-19	Please include a Year 2020 traffic analysis into the data to reflect the current change in driving patterns due to an increase in teleworking.	The FEIS includes a description of year 2020 conditions and the impacts of the COVID-19 pandemic on travel, including increased teleworking. Refer to FEIS, Chapter 4, Section 4.5 for more information on the COVID-19 traffic sensitivity analysis.
104	Prince George's Planning	DEIS- Pg. 20-22	Figure 2-1-2-3 mapping is difficult to read in hard copy form. Please change to Landscape orientation and enlarge.	Thank you for your comment about the size of the Figures. MDOT SHA has ensured the figures in the FEIS are readable.

No.	M-NCPPC Department	Reference	Comment	Response
105	Prince George's Planning	DEIS- Pg. 26 Table 2.6	Every alternative shows TBD. Please provide specific details on noise abatement and sound barrier location.	<p>It is not clear what this comment is referring to. MDOT SHA could not find anything on page 26 or in Table 2.6 that relate to noise walls. The summary tables that show noise receptors impacted includes numbers for all cells with no TBD listed.</p> <p>Regardless, the noise technical analysis has been updated to reflect the Preferred Alternative, and the results are shown in the FEIS. The DEIS, SDEIS and FEIS all include the "Statement of Likelihood" that is required by FHWA regulation 23 CFR 772.13(g)(3): "A statement of likelihood shall be included in the environmental document since feasibility and reasonableness determinations may change due to changes in project design after approval of the environmental document. The statement of likelihood shall include the preliminary location and physical description of noise abatement measures determined feasible and reasonable in the preliminary analysis. The statement of likelihood shall also indicate that final recommendations on the construction of an abatement measure(s) are determined during the completion of the project's final design and the public involvement processes."</p>
106	Prince George's Planning	DEIS- Pg. 33-34	Air Quality and Trees could be used inside ROW to reduce pollutants.	On-site tree planting within the ROW will be conducted to the maximum extent practicable.
107	Prince George's Planning	DEIS- Pg. 35	Properties Relocations- is this number final or does MDOT anticipate increases in Relocation?	MDOT SHA has continued to refine the Preferred Alternative design and no residential or business displacements are proposed for the Preferred Alternative Phase 1 South. FEIS Chapter 5, Section 5.5 provides the current information on property impacts.
108	Prince George's Planning	DEIS- Pg. 36 and Pg.11	Tree Mitigation Cost- would be \$45m to offset the tree impacts from this project based on \$3000 an acre based on Tree Mitigation Bank	Total mitigation cost will depend upon the final design impacts and the amount of mitigation planting available on-site, off-site planting opportunities on public lands, and available credit from approved mitigation banks.
109	Prince George's Planning	DEIS- Pg. 40	Prince George's County population has grown by over 35% since the highway was completed and is predicted to grow an additional 16%. How can existing culverts accommodate that level of growth and runoff from impervious surface? Please review all SWM facilities to accommodate current conditions.	Because Prince George's County is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. However, to the extent that additional growth is associated with additional county approved development permits, new development should not be permitted by the county without addressing the impact of those developments on SWM facilities and associated culverts.
110	Prince George's Planning	DEIS- Pg. 45 Table 3-10	Are the traffic model forecasts assuming all of the proposed projects listed in Table 3-10 will be built in the same timeframe as the Managed Lanes Project to alleviate congestion?	The reference to Table 3-10 appears to be an error, which was acknowledged at a meeting on April 9, 2021. The background projects listed on page 3-4 are included in the CLRP and would be assumed to be in place by the year 2040 for the purposes of evaluation.
111	Prince George's Planning	DEIS- P45-46 Figure 2-29	Figure 2-29 Volume Validation shows a +/- at 20%-45%. This seems exceptionally high range to base a traffic model on. A 45% difference between estimated and observed counts and screenline seems too large to be accurately used for volume assumptions. Please explain.	The figure referenced summarizes model validation completed by MWCOG, and is not an MDOT SHA product. These ranges are based on high-level evaluations of raw data. The MWCOG model is the state of practice model approved for use on transportation projects throughout the regions, and FHWA approved the forecasting and analysis methodology during MLS scoping. Differences between estimated and observed data were addressed through post-processing by MDOT SHA, as recommended by MWCOG, per standard practice to obtain the final numbers used in the Study.
112	Prince George's Planning	DEIS- Pg. 48 Figure 2-29-2-33	HOV Lane Data- what is the percentage of use of increase year over year for Non Tolloed HOV lanes?	HOV use is generally projected to increase between the existing conditions and the future No Build conditions, but the amount varies by location. The volume diagrams in FEIS, Final Traffic Analysis Technical Report, Attachment A show the existing and projected HOV volumes.

No.	M-NCPPC Department	Reference	Comment	Response
113	Prince George's Planning	DEIS- Pg. 50	New capacity through the Managed Lanes project could increase demand for growth in the area which will create increased secondary demand on schools, parks, local roads, etc. How is this expanded demand accounted for and mitigated by this project?	Roadway improvements, such as those proposed under the Preferred Alternative, can be an attraction to commercial or real estate development. The possibility of induced growth in the study area would be diminished by the reduced Phase 1 South limits of the Preferred Alternative, the long-term presence of the existing highway, and the mature land uses and developments that occurred in the ICE Analysis Area. As a result, the likelihood of induced commercial or residential development is reduced substantially by the built-out environment that has been in existence for many years. Moreover, much of the undeveloped land within the ICE Analysis Area is designated by comprehensive plans for preservation. Comprehensive plans in areas closest to the study area corridors such as Prince George's County, emphasize managing new growth in order to preserve the character of existing residential areas. The growth anticipated in these well-developed portions of the ICE Analysis Area is generally planned to be directed into designated hubs near major transportation facilities and MDP-designated PFAs. Indirect impacts from the Study would be minimized by adhering to existing master plans and zoning regulations pertaining to new development. Refer to FEIS, Chapter 9, Section 9.3.4M.
114	Prince George's Planning	DEIS-Pg. 50	The Alternatives seem to primarily address the unmet need for expanded traffic/transit from previous growth. Do all of the alternatives address the forecasted anticipated growth?	Yes, the project is designed to accommodate both existing traffic and long-term traffic growth.
115	Prince George's Planning	DEIS Pg.51	Please include the discussion of Indirect Community Impacts by County here instead of referring the reader to the Technical Report in the Appendix.	See response to Comment #42.
116	Prince George's Planning	DEIS-Pg. 52	Do the Screened Alternatives Cumulative Impacts take into account partial takes of private property or just full residential locations? Have you included in your cost estimates that some partial takings may result in full takings due to removal of access or other essential facilities?	The cumulative impacts would account for all property impacts whether they are a full or partial property impact. However, as noted previously the Preferred Alternative Phase 1 South avoids all residential and business displacements; therefore, the analysis is in accordance with the reduction of displacements and the full anticipated impact of partial property acquisitions. The cost estimates include the value of partial takings and damages to the remainder; in accordance with regular cost estimates, there is also an added dollar value for unanticipated contingencies.
117	Prince George's Planning	DEIS-Pg. 52	The analysis states that this proposed project will impact 24%-28% of the Environmental Justice Community with residential relocations and impact 25% of Environmental Justice Community businesses. What avoidance, minimization and mitigation measures have been taken to reduce this significant impact to the Environmental Justice community?	See response to Comment #20.
118	Prince George's Planning	DEIS-Pg. 54	The statement "The impacts to parkland would primarily be narrow strips of ROW taken...and would not have the effect of bisecting existing facilities in most instances..." is incorrect. Please revise with the correct parkland impacts and discuss the cumulative effect of the loss of <u>any</u> parkland in a heavily urbanized area.	The statement noted is providing context for the impact. Revised parkland impacts are included in the SDEIS and FEIS, and mitigation packages have been developed in coordination with the OWJs. As described in the SDEIS, the Preferred Alternative was identified in response to public, agency and stakeholder input to align with the planned project phased delivery and permitting approach, focusing build improvements within the area of Phase 1 South, and to avoid and minimize impacts to natural, cultural and community resources.
119	Prince George's Planning	DEIS-Pg. 76	MWCOG model assumes Land Use as "mostly built out today and will be even more so by 2040". How can the model assume no additional build out for the next 20 years? What is the year by year increase in land use change in each County?	The model does assume additional build out over the next 20 years. The land use inputs used in the MWCOG model are from the Cooperative Forecast based on feedback from each jurisdiction. For Prince George's County, employment is projected to increase by 18.8%, population is projected to increase by 10.1%, and households are projected to increase by 17.3% between 2015 and 2045 in the Round 9.1A Cooperative Forecast. Data for other counties can be found here: https://www.mwcog.org/community/planning-areas/cooperative-forecast/
120	Prince George's Planning	DEIS- Pg.76	Cherry Hill Road Park – mentions impacts from construction vehicles - will access be provided through the park or from I-495 only?	See response to Comment #34.

No.	M-NCPPC Department	Reference	Comment	Response
121	Prince George's Planning	DEIS Pg. 77	How will the Stormwater Management Vault be maintained?	Vaults will be maintained from MDOT SHA ROW. The configuration of the vault will be up to the Developer, contingent on agency review and approval, but underground vaults are typically maintained using a vacuum truck to remove debris/sediment.
122	Prince George's Planning	DEIS- Pg. 100	Impacts to Henry P Johnson Park from existing and future noise must be mitigated.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Henry P Johnson Park is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
123	Prince George's Planning	DEIS- Page 2-5 and page 102 Section: Alts Tech Report	How will incidences and congestion be measured on parallel roads via the IAPA memo? How will they be mitigated during the construction and operation of the ML?	MDOT SHA's Application for Interstate Access Point Approval, which is included in the FEIS as Appendix B, includes an evaluation of traffic operations on all cross streets, interchange ramp junctions, and adjacent intersections. For any locations with a projected increase in volume and congestion as a result of the project, mitigation is proposed in the form of geometric improvements (such as added turn lanes) and/or signal timing adjustments. Construction impacts are not part of the MDOT SHA's Application for Interstate Access Point Approval, but are a major consideration for the project that will be documented during final design.
124	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	The costs of construction will be covered over a 50 period with the bonds that the concessionaire will take out. How much will these cost the residents of Maryland? Does this include the costs for removing underground infrastructure? Who pays for that and how is that fiscally viable?	<p>Bonds issued by the Developer will be repaid from toll revenues collected from users of the HOT Managed Lanes only – there is no recourse to the State of Maryland for paying bond principal and interest. The sole source of repayment is the project's toll revenue, and therefore residents of Maryland will only have a role in repaying these bonds insofar as they choose to use the HOT Managed Lanes. The existing free lanes will continue to be free.</p> <p>Investors in these bonds will receive that interest and principal paid from project toll revenues. To the extent that the bonds are tax-exempt private activity bonds, as we anticipate, Maryland residents will likely have an extra incentive to purchase them because interest would be exempt from both federal income taxes and Maryland state income taxes.</p> <p>DEIS cost estimates included projected costs for underground utility relocations. Refer to Chapter 9, Section 3.4.M for a response to impacts to utilities and associated costs of repairs.</p>
125	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	Will the process of securing a municipal bond and financing of this project be made public and transparent? Based on the challenges of the Purple Line, is the market open to accepting bonds backed by the State of MD? Again, how will underground infrastructure under the Beltway be moved and who bears that cost? The residents of the Prince George's and Montgomery County were told that there is no cost for this project, now we understand this isn't the case.	<p>The rules for issuing municipal bonds are regulated by the Municipal Securities Rulemaking Board and the Securities Exchange Commission, both of which impose strict requirements around publication and transparency of bond issuance information. As part of the bond issuance process, the Developer will be required by these rules to disclose information about the project's financing and post it publicly in an Official Statement in accordance with a prescribed process. In addition, the Section Developer is required to post Continuing Disclosures about the status of the project's financing after issuance through the life of the bonds.</p> <p>As part of its commitment to deliver the project at no net cost, the State of Maryland is requiring that bonds be solely repaid from project toll revenues, without any backing from the state.</p> <p>The municipal finance market is very robust and investment funds focused on this type of financing continue to experience positive inflows of capital looking to invest in projects such as this.</p> <p>Refer to Chapter 9, Section 3.4.M for a response to impacts to utilities and associated costs of repairs.</p>

No.	M-NCPPC Department	Reference	Comment	Response
126	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	While MDOT initially had high hopes for the P3 concessionaire for the Purple Line, it has become a financial nightmare. How can this project avoid the pitfalls of the Purple Line by allowing this P3 concessionaire to walk away from the project? The state and local jurisdictions cannot afford this additional project cost and will be considerably impacted.	Refer to Chapter 9, Section 3.5 for a response to the P3 Program or Board of Public Works and Project Costs. Also note that a link to the Phase Developer P3 Agreement has been available on the Project website, https://oplanesmd.com/p3-information/phase-1-agreement/ .
127	Prince George's Planning	DEIS- Page 2-7 Section 2.3	The breakdown of the segments mentioned as a part of Visualize 2045 make more sense as three projects which is why the logical terminii keeps coming up. The promise that another NEPA process for MD 5 to WWB will be proposed with no details or information about how, when and whether appropriate coordination will be required by the P3 Concessionaire, while I-270 moves forward, is unjust.	The I-495 & I-270 Managed Lanes Study limits were established based on an evaluation of logical termini and independent utility, not construction phasing. This allowed analysis of traffic and environmental impacts on a broad scale. Based on feedback received on the DEIS, the Preferred Alternative was identified to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only in an effort to avoid and minimize impacts to natural, cultural and community resources and to avoid residential and business displacements. No action is proposed at this time in Prince George's County.
128	Prince George's Planning	DEIS- Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives.	It appears as if this comment is referencing Table 2-3 in the DEIS. The intent of this table is to show the overall relative traffic benefit of each alternative, which is better represented by System-Wide Delay Savings than Average Annual Hours Saved Per Commuter. Both values follow the same numerical trend, and the results for Average Annual Hours Saved Per Commuter are reported elsewhere in the document, namely in Section 5.2 of the Traffic Technical Report in DEIS, Appendix C.
129	Prince George's Planning	DEIS-Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives.	See response to Comment #128.
130	Prince George's Planning	DEIS- Page 2-33 Section 2.7.1	Full access to the UM Prince George's Hospital Trauma Center, is of paramount importance to Prince George's County. Emergency vehicles should not have to choose which exit to use. Full access deserves additional detailed study once the improvements are further defined and the design has advanced.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the UM Prince George's Hospital Trauma Center is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
131	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible. It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted.	Refer to Chapter 9, Section 3.4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management. MDOT SHA appreciates this perspective and wishes to assure M-NCPPC that the parties cooperated to identify viable locations for effective stormwater management and has determined that some locations would present as a benefit to the parkland. Off-site stormwater management is only being proposed when on-site stormwater management has been exhausted. Also see responses to Comments #132 and #135.

No.	M-NCPPC Department	Reference	Comment	Response
132	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources</p>	<p>The SWM analysis completed for the DEIS and SDEIS was a planning level analysis for determination of LOD and costs. A more detailed SWM analysis was completed for the FEIS based on standard MDE approved hydrology and hydraulic procedures. Based on the more detailed preliminary SWM concept developed for the FEIS, the anticipated off site requirements for the Preferred Alternative have been significantly reduced from 114 acres to 2.5 acres. Refer to Chapter 3, Section 3.1.6 of the FEIS.</p> <p>The preliminary SWM concept tabulates SWM by POIs/LOIs, which are defined as locations where drainages leaves the ROW or LOD, and identified 167 POIs/LOIs. Some POIs/LOIs will require a variance, which is very common for linear projects and is typically related to minimal increases in runoff that average out further downstream or where provision of the particular management may have an adverse impact. All variance requests require a downstream impact analysis and local jurisdiction concurrence. Variance requests are based on final design and therefore cannot be provided at this time.</p> <p>MDOT SHA understands the unique opportunity afforded by this project to improve existing conditions. The selected developer intends to exceed SWM requirements, but MDOT SHA cannot elaborate on how they will accomplish while the project is still in NEPA.</p>
133	Prince George's Planning	DEIS- Page 2-38 Section 2.7.2	<p>It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site.</p> <p>Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>	See response to Comment #132.
134	Prince George's Planning	DEIS- Page 2-39 Section 2.7.3	<p>Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.</p>	See response to Comment #13.
135	Prince George's Planning	DEIS- Pages 2-40 Section 2.7.4 DEIS	<p>When the preferred alternative is chosen, and the detailed stormwater analysis is completed, the LOD will need to be altered to potentially accommodate additional areas of adjacent (on-site) stormwater management. What is the specific process that will be established in order to allow for these LOD changes? This process needs to be agreed upon early and documented in the FEIS, ROD, and P3 agreement.</p>	<p>A more detailed stormwater analysis was completed for the FEIS and the estimated onsite regulatory stormwater need has been significantly reduced from 114 acres to 2.5 acres. Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance.</p> <p>Refer to Chapter 9, Section 3.4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management.</p> <p>See response to Comment #47.</p>
136	Prince George's Planning	DEIS- Pages 4-83 - 4-86 Section 4.12.4	<p>MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.</p>	MDOT SHA has committed to providing an on-site environmental monitor(s) during construction.
137	Prince George's Planning	DEIS- Page 4-97 Section 4.15.4	<p>Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.</p>	See response to Comment #56.

No.	M-NCPPC Department	Reference	Comment	Response
138	Prince George's Planning	DEIS- Page 4-101 Section 4.16.4	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.	MDOT SHA has committed to removing invasive species as part of the final mitigation plan. Enhancements involving M-NCPPC properties have been coordinated with M-NCPPC and are documented in the FEIS, Chapters 5, 6 and 7 and Appendix G-Final Section 4(f) Evaluation.
139	Prince George's Planning	DEIS - Page 4- 105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.	MDOT SHA has committed to mitigating for forest impacts on parkland. Commitments made as part of this coordination are included in the FEIS, Chapters 5, 6, and 7 and Appendix G-Final Section 4(f) Evaluation.
140	Prince George's Planning	DEIS- Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.	Natural bottom culverts will be included as part of culvert replacement effort, where practicable. Preliminary roadway design plans do not include this level of detail, but this information would be included with the construction plans for the project.
141	Montgomery Planning	DEIS- Page 2-2, 2-21, 2-22	The analysis of the MD 200 Diversion Alternative as an avoidance technique for impacts to the top side of 495 was flawed. The request to include it did not consider the rationale. No analysis was done that looked for means to motivate drivers to use the ICC as opposed to 495 when the travel route makes sense. Through consideration of TSM/TDM approaches such as dynamic signage and consideration of changes in operations (speed limits) on the ICC, whether it would draw some of the traffic off of 495 and open that segment with reduced vehicles would address the question whether there is a need to increase capacity with the Build Alternatives, and if so whether Alternative 9M is enough.	See response to Comment #6.
142	Montgomery Planning	Page 2-5 and page 102 Section: Alts Tech Report	The local roadway network evaluation is entirely inadequate to address concerns of local traffic changes, and we firmly believe that this information is needed at the DEIS/Alternatives Analysis stage, not at the IAPA/FEIS stage. Local traffic impact might be a critical factor in selecting which Alternative works for concerned citizens and localities, and the deferral of the detailed evaluation. While the managed lanes may in fact reduce local traffic overall, that statistic is more as important as locations where the managed lanes will increase traffic and add to existing congestion. This is a particular concern where direct access locations at interchanges are proposed, including the managed lane only interchanges. Any mitigation needed to offset project-related impacts must be the responsibility of the P3 to address.	With respect to the local roadway network related to the Build Alternatives, information in the DEIS was based on preliminary design that did not include direct access at Gude Drive or Wootton Parkway. Since that time, MDOT SHA has coordinated with various stakeholders, including the City of Rockville, and has updated the design to include direct access connections to the managed lane system at these two interchanges. The results presented in the SDEIS and FEIS account for these updates. The results indicate that the net impact of the Preferred Alternative will be an overall reduction in delay on the surrounding arterials, including a 4.8 percent reduction in daily delay on the arterials in Montgomery County, despite some localized increases in arterial traffic near the managed lane access interchanges. The portions of the local road network with an anticipated increase in volumes were evaluated in more detail as part of this FEIS, and mitigation was proposed where needed to maintain acceptable operations and safety per FHWA Interstate Access Point Approval guidelines. Refer to Chapter 9, Section 3.4.B for a response to traffic modeling and analysis.
143	Montgomery Planning	DEIS: Page 2-16 Section 2.5.2	We disagree with project elements (conversion of existing 3 hour HOV lanes into 24/7 tolled lanes where HOV MAY drive for free or get a discount) that provide improved capacity for paying customers at the expense of existing drivers in general-purpose lanes while providing worse traffic operating conditions in those GP lanes than under No-Build conditions. This is unfair to existing commuters who have waited for years for meaningful road or transit projects from MDOT, and who now have extremely long and congested daily commutes. There is so much peak spreading today, particularly from longer-distance commutes in Frederick County and points further west, that I-270 is jammed in Urbanna and Clarksburg at 5AM, 3PM before the evening rush hour, and still jammed at 7PM. Meanwhile, Upcounty Montgomery County residents pay the price for this lack of long- term planning that has not expanded in a meaningful way rail transit, bus transit or addressed existing highway bottlenecks..	Following completion of the DEIS, the policy decision was made to allow HOV3+ to use the managed lanes toll free. We agree that peak hour spreading is a problem under existing conditions, and one of the goals of the project is to provide additional capacity on the freeways to accommodate more traffic during the peak hours and reduce peak spreading.

No.	M-NCPPC Department	Reference	Comment	Response
144	Montgomery Planning	DEIS- Page 2-16 Section 2.5.3	MD 200 Diversion Alternative should be moved forward as an ARD and studied in more detail, including analyses with and without the I-95 segment. It is irrelevant whether the managed lanes is a “closed” system as established by the terminus at Exit 5 in Prince George’s County. The O/D data indicates only a 5% usage between Prince George’s and north of I-270. The data indicates significant potential for use (20%) between the ALB and north I-95, which does not support managed lanes on I-95 between MD 200 and I-495. In fact, it acts to the detriment of diverting traffic by encouraging travel beyond MD 200 to I-495 East. I-95 now acts as a bottleneck to filter traffic onto I-495 and does this quite well. The MD 200 Diversion Alternative without this I-95 section would likely have very different results, which cannot be discerned with the information provided in the DEIS. Without the I-95 segment, the reduction in environmental impact provides a greater benefit for the MD 200 Alternative under 4(f). Inrix data today suggests that peak period travel in the southbound direction between I-95 at MD 200 and the American Legion Bridge is in fact faster on a regular basis using MD 200. Missing from this evaluation was a comparison of the existing TTJ, PTI, and average travel time between the I-95/MD 200 interchange and the American Legion Bridge by direction and by peak period and projected travel times in 2040.	See response to Comment #6.
145	Montgomery Planning	DEIS- Page 2-21 Section 2.54	The DEIS does not indicate whether a composite of Alternatives would be considered at different segments of the Study Area. Due to the size and scope of the project (48 miles), different segments of the effected highways, as well as impact to the surrounding road network does not lend the project to a single solution. There are multiple environmental, cultural and transportation impacts and solutions along the route, and therefore the selection of a single alternative may not be the better solution.	As described in the Supplemental DEIS, based on input from agencies, stakeholders and the public, MDOT SHA and FHWA identified the Preferred Alternative to better align the build improvements with the planned project phased delivery and permitting approach which focused on Phase 1 South only and to avoid impacts to natural, cultural and community resources including residential and business displacements.
146	Montgomery Planning	DEIS- Page ES- 7 Page 2-35,	Regardless of whether heavy or light rail are considered as possible Alternatives for this project, structural accommodation for future rail across the ALB is the forward thinking design. The ALB will be not be replaced again for 50+ years, and this is the opportunity to build for the future. Besides, every other Alternative was analyzed for 2045, so why not the ALB? A design can be developed to minimize additional environmental impact.	See response to Comment #21 and refer to Chapter 9, Section 3.3.D for a response to Analysis of Alternatives Retained for Detailed Study.
147	Montgomery Planning	DEIS- Page 2-36	We object to MDOT SHA’s refusal to consider equity as part of their project design. This includes income level toll scaling, and other measures. They are essentially justifying an inequitable transportation project by design, and the lack of concern that income-based toll scaling may be needed, is proof of this disregard. In the current transportation paradigm, projects MUST be designed with equity in mind and as part of the Alternative selection process. Deferring EJ issues to the Preferred Alternative is too late, particularly if EJ impacts are severe.	See response to Comment #20.

No.	M-NCPPC Department	Reference	Comment	Response
148	Montgomery Planning	Page 2-39 Section 2.8 Section 6.2.3, Alts Tech Report	<u>Lack of Financial Viability.</u> Each of the alternatives would require a significant state subsidy, which is contrary to all of the representations throughout the process that no taxpayer dollars would be required for the project. In fact, each of the alternatives would require some subsidy without description of the funding source. Section 6.2 presents a range of economic outcomes based on two metrics, interest rates and capital costs. The full cash flow tables are available in Section 6.2.3 in the Alternatives Technical Report (Appendix B of the DEIS). Because the cost estimates are preliminary and subject to change with market conditions , and based on the Purple Line experience, the contingency built into the estimates should extend to include risks due to potential delays for construction, land acquisition , and cost of litigation.	As noted in Chapter 1 of the DEIS, financial viability was a project goal. The financial analysis in the DEIS provided on pages 2-48 and 2-49 was used to compare the six Build Alternatives to each other to determine which alternatives would be more likely to be financially viable. In February 2020, a Progressive P3 solicitation was initiated seeking phase developers interested to design, build, finance, operate, and maintain the proposed managed lanes. MDOT and MDTA, with participation from local jurisdictions, developed a shortlist of four highly qualified Proposers and three of the four shortlisted firms submitted proposals to enter into the Phase P3 Agreement for Phase 1 to assist in the pre-development work and deliver Phase 1. In February 2021, MDOT and MDTA identified the Selected Proposer that could best deliver the project in a manner most advantageous to the State. On August 11, 2021, in accordance with Maryland law, MDOT and MDTA received approval from the Maryland Board of Public Works to award the Phase 1 P3 Agreement to the Selected Proposer. As part of their internal evaluation process, the Selected Proposer/Developer completed their own financial analysis to confirm the project was financially viable for them to bid on. Their proposal assumed no taxpayer dollars would be required for the project. Also note that a link to the Phase Developer P3 Agreement has been available on the Project website, https://oplanesmd.com/p3-information/phase-1-agreement/ .
149	Montgomery Planning	DEIS- Page 2-41	MDOT SHA has failed to consider local input and support for Master Plan goals within Montgomery County Master Plans and Transportation Demand Management Districts. How does the managed lanes project impact major activity centers and their non-auto driver mode share (NADMS) goals as specified in various adopted master plans and the new TMD regulations? NAMDS is a primary performance metric in many of Montgomery County master plans, and now per the TMD regulations, they apply countywide. We really have no information in the DEIS whether the managed lanes will help or hinder the NADMS goals in many of our master plans, because this has not been evaluated during the DEIS.	See response to Comment #18.

No.	M-NCPPC Department	Reference	Comment	Response
150	Montgomery Planning	DEIS- Pages ES-12 Section ES, DEIS & Env Justice Section Page 4-13 thru 4-19 Section 4.5	On Table ES-2, for the metric Annual Average Hours of Savings per Commuter, does not distinguish which populations benefit. It is not appropriate to state that everyone is benefiting without an adequate analysis of the impact to EJ Communities. Determination of impacts to the EJ Communities at the FEIS will not address the systemic racism that occurs when marginalized communities are not asked to assist with the decisions at the outset, but only asked to fix the problem after it occurs. Disproportional benefits must be included as part of the EJ analysis. The vast majority of the travel time benefits will be provided to non-EJ populations, based on the design of the facility and the basic idea of managed lanes (travel time benefits for drivers willing and able to afford the tolls). Focused corridor-based public transit investment, adding or modifying access locations, and developing a toll subsidy program, should be addressed as part of the recommendation for the RPA.	<p>The EJ Analysis presented in the DEIS was conducted in compliance with applicable legislation, executive orders, regulations, and guidance. Per the methodology approved by FHWA, the first steps of the EJ Analysis were completed in the DEIS and SDEIS, and the remaining steps, including a comparison of impacts from the Preferred Alternative to EJ populations versus impacts to non-EJ populations, are completed in the FEIS, Chapter 5. The historical context of highway construction and its impact on marginalized communities is also described in FEIS Chapter 5, Section 5.21.</p> <p>MDOT SHA has incorporated project elements and community enhancement measures in consideration of Environmental Justice populations. MDOT SHA will widen the existing sidepath (Cabin John Trail) along Seven Locks Road under I-495 and will construct a new sidewalk along the west side of Seven Locks Road under I-495 to reestablish the historic connection between First Agape AME Zion Church (Gibson Grove Church) and Morningstar Tabernacle No. 88 Moses Hall Cemetery. The Preferred Alternative also includes transit, bicycle, and pedestrian improvements: direct and indirect access to existing and proposed transit stations, and transit-oriented development areas within the EJ Analysis Area; increasing the number of bus bays at WMATA Shady Grove Metrorail Station and increased parking at the Westfield Montgomery Mall Transit Center; connecting facilities in Maryland and Virginia via a new pedestrian/bicycle shared-use path across the American Legion Bridge; lengthening the I-270 bridge over Tuckerman Lane to accommodate future pedestrian/bicycle facilities (Montgomery County would construct the master plan recommended facilities along Tuckerman Lane in the future); and constructing new sidepaths across MD 190 over I-495 and construct new bike lanes in both directions on MD 190. Additionally, it is anticipated that increasing the availability of higher speed and more reliable options connecting major transit locations and economic centers will have a positive impact on transit usage in the study area by encouraging new transit service or modifying routes. Similarly, because High Occupancy Vehicles (HOVs) with three or more passengers will also travel toll-free on the new managed lanes, the use and availability of car and vanpools should be enhanced. These affordable transportation options can particularly benefit potential users who may not have reasonable access to personal vehicles. Additional detail is provided in Chapter 5 of the Final Community Effects Assessment/Environmental Justice Technical Report (FEIS Appendix F) and FEIS Chapter 9, 3.4.D.</p>
151	Montgomery Parks	DEIS- ES 5 – Chapter 5	Add language stating that all M-NCPPC Parks are significant.	See response to Comment #98.
152	Montgomery Parks	DEIS-Page 10 Section 1.2.7 App F Draft Section 4(f) Evaluation	Parkland impacts can only be considered de minimis if there is sufficient mitigation approved by MNCPPC. Parks with impacted resources will require reconfiguration to make the park whole and mitigation for the loss of parkland will be in addition to the onsite work.	See response to Comment #56.
153	Montgomery Parks	DEIS-Page 10 Section 2.2 App Q Conceptual Mitigation Plan	MNCPPC Montgomery Parks will require tree replacement for trees removed on parkland, this will be above and beyond any regulatory requirements.	Your request is noted. Also, see response to Comment #139.

No.	M-NCPPC Department	Reference	Comment	Response
154	Montgomery Parks	DEIS-Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	The resources identified in the project area are finite resources that provide essential natural resource value in an already heavily developed landscape. Once the avoidance and minimization process is applied to all natural resources on parkland, there may be areas that are too heavily impacted to continue to have meaningful ecological function; in these areas it may be appropriate to investigate adding SWM or other project needs. SHA must coordinate with Parks during preliminary design to adequately reduce impacts to forests. Relying on incentives to the concessionaire will not be sufficient to provide the required avoidance and minimization on parkland. In addition to Forest Conservation obligations, tree impacts on parkland will also be subject to mitigation for the actual loss of trees and the appropriate number of plantings necessary to make the park whole.	MDOT SHA coordinated with M-NCPPC regarding forest impacts on parkland and potential mitigation including development of a conceptual forest mitigation approach for impacts on M-NCPPC property with re-planting, infill planting and non-native/invasive species control in the buffer adjacent to roadway impacts, which is included in the FEIS. The final forest mitigation plan will be developed by the Developer in conjunction with MDOT SHA and the affected jurisdictions and landowners, including M-NCPPC, during the final design phase of the project.
155	Montgomery Parks	DEIS- Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	All parkland must be considered of the highest value for the avoidance and minimization process, as is mandated by the Policy for Parks. As discussed in other comments, MNCPPC does not concur that all reasonable measures to mitigate or minimize harm have been fully developed. As an Official with Jurisdiction, MNCPPC will require further coordination to minimize and mitigate impact as is described in the other comments.	Your request is noted. Also, see response to Comment #13.
156	Montgomery Parks	Page 94 Section 6.1.6 App B Alternatives Technical Report	As MNCPPC stated during the review of the ARDS, the approach of not considering environmental impacts as a differentiator between the preliminary screened alternatives is a flawed approach directly in conflict with the intent of the NEPA process. A major component of the NEPA process is to identify environmental impacts and to utilize the differences, as small as they may be, to select an alternative that avoids and minimizes potential impacts.	See response to Comment #14 and refer to Chapter 9, Section 3.2.A for a response on Screening of Preliminary Alternatives Process.
157	Montgomery General	Page 1-14 Section 1.8.2 Section 4f	Environmental responsibility must include language that requires - in the following order avoidance, then minimization of impact, then mitigation at equal or greater natural, cultural or recreational value.	FHWA and MDOT SHA agree with your comment and this is the process that has been documented throughout the DEIS, SDEIS, and FEIS and in the Draft and final Section 4(f) documents.
158	Montgomery General	DEIS page 2-37 section 2.7.2	MDOT SHA should add specific language in the FEIS that commits to utilizing innovative drainage techniques (such as water quality inlets, trash racks, and grit collectors, etc.) in all viable locations to take every opportunity to reduce the transfer of trash and pollutants from the MDOT SHA roadway into adjacent aquatic resources. There is currently no formal commitment from MDOT SHA to use these techniques in the final design.	MDOT SHA recognizes M-NCPPC's desire for innovative drainage design and will work with the Developer to evaluate and utilize these techniques to the maximum extent practicable.
159	Montgomery Parks	DEIS Page 2-37 and 2-38 Section 2.7.2	The proposed increase in new impervious across all the affected watersheds is extraordinary. There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.	Refer to Chapter 9, Section 3.4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management. See response to Comment #132.

No.	M-NCPPC Department	Reference	Comment	Response
160	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	<p>The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible.</p> <p>It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted.</p>	See response to Comment #131.
161	Montgomery Parks	DEIS- Pages 2-37 -2-39 Section 2.7.2	MDOT SHA needs to put much more emphasis on the protection and restoration of down stream aquatic habitat and must commit to going above and beyond the project's minimum regulatory stormwater requirements to actually address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.	See response to Comment #132.
162	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	<p>Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>	See response to Comment #132

No.	M-NCPPC Department	Reference	Comment	Response
163	Montgomery Parks	DEIS: Page 2-38 Section 2.7.2	<p>Based on our field investigations, many existing culverts (most CMP with concrete outfalls) are failing (both in size classes <36" and >36"). When failing culverts are identified in the project footprint, they should be replaced with natural bottom culverts (where appropriate in perennial systems to promote aquatic passage) and stable environmentally enhanced outfalls to protect downstream resources. Understand that this comment from M-NCPPC is unrelated to any separate regulatory requirements regarding aquatic organism passage.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit in the FEIS and ROD to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p> <p>Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as an element of a Park mitigation package, but the intent must be included in the roadway design plans reflected in the FEIS and ROD.</p>	<p>See response to Comment #140 for first and third paragraph.</p> <p>See response to Comment #132 for second paragraph.</p>
164	Montgomery Planning	DEIS - Page 2-38 Section 2.7.2	<p>SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site.</p> <p>Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>	<p>Refer to FEIS Chapter 9, Section 3.4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management.</p> <p>Also see response to Comment #132.</p>
165	Montgomery General	DEIS - Pages 2- 38 Section 2.7.2	<p>M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Any SWM requirement deficits should first be met within the existing highway network and secondly within the impacted watershed. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p>	<p>See response to Comment #132.</p>
166	Montgomery Parks	DEIS-Pages 2-39 Section 2.7.2	<p>More information on the stormwater treatment levels and adequacy of available SWM as shown needs to be provided now, while many design decisions are being made and an LOD is getting set. Specifically, a drainage area breakdown to all the POIs including total drainage area, impervious area, required treatment and treatment provided should be provided to all stakeholders.</p> <p>Additionally, what are the innovative approaches that may reduce the amount of offsite treatment? These need to be identified in the FEIS and ROD. Why would these approaches not be considered now? Is it possible that further analysis and design could actually increase the need for offsite SWM?</p>	<p>See response to Comment #132.</p> <p>A SWM summary for the project is provided in the FEIS, Chapter 3, Section 3.1.6.</p> <p>Innovative practices were considered in the preliminary SWM concept developed for the FEIS, resulting in a significantly decreased anticipated offsite requirement from 114 acres to 2.5 acres.</p>

No.	M-NCPPC Department	Reference	Comment	Response
167	Montgomery Parks	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.	See response to Comment #13.
168	Montgomery Parks	DEIS page 2-40 section 2.7.4	The current LOD, as currently proposed by MDOT SHA, is unrealistic to depend on for impacts to parkland as it is a preliminary planning tool. A workable process for modifying the LOD that actually prioritizes land owner's interest and protecting resources, must be agreed upon between M-NCPPC and MDOT SHA and codified in the FEIS and ROD.	Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance. See responses to Comment #5 and #47.
169	Montgomery Parks	DEIS Page 4-3 Section 4	The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts . For example, there are numerous existing degraded stormwater outfalls from the beltway that should be included in the project, and therefore the LOD so that they can be restored. The inclusion of these elements within the LOD would require an expansion of the LOD, but would result in an improved environmental condition. To date, MDOT SHA has been focused on minimizing the LOD to show the lowest impact to resources on paper, but not necessarily to achieve the lowest impact in the real world. We will want to see this reflected in our ongoing coordination with the project team, as well as formally in the FEIS, the ROD, and in the P3 agreement.	See response to Comment #5 and refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance.
170	Montgomery Parks	DEIS- Page 4-34, 4-63, 4-66 Sections 4.6.3, 4.9	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations in the FEIS. See comments from Appendix D regarding noise barriers shown on Environmental Resource Maps for specific noise walls comments.	See response to Comment #23.
171	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources. In sensitive watersheds, this equates to going above the minimal regulatory ESC practices with additional BMP's to protect downstream resources during construction. MDOTS SHA needs to commit to these additional BMP's during construction in sensitive watersheds in the FEIS.	See response to Comment #132.
172	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.	See response to Comment #136.

No.	M-NCPPC Department	Reference	Comment	Response
173	Montgomery Parks	DEIS- Page 4-83 - 4-87 Section 4.12.4 DEIS	M-NCPPC appreciates the response from SHA that “MDOT SHA will continue to coordinate with M-NCPPC and the regulatory agencies to refine the LOD at Section 4(f) properties for the Preferred Alternative.” As noted in other comments, a process for LOD changes must be created and documented (in the FEIS, ROD, and P3 agreement) for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy. Parks has submitted numerous detailed comments concerning the LOD. Parks appreciates both past and future efforts to reduce the LOD and construction impacts. However, Parks does expect the LOD to increase in some areas to allow room for appropriate work to occur to restore, stabilize, and protect various natural resources. An important aspect of avoidance and minimization is minimizing the roadway footprint while still potentially keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas.	See responses to Comment #5 and #47.
174	Montgomery Parks	DEIS-Page 4-84 - 4-85 Section 4.12.4	Parks requests details on retaining wall installation when being installed on or near a stream bank, Rock creek is an example. Due to the likelihood of needing an LOD expansion into sensitive resources, M-NCPPC requests further analysis of these areas before the FEIS and ROD. As noted in other comments, a process for LOD changes must be created for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy.	Detailed analysis was completed since publication of the DEIS to further assess constructability requirements relative to the existing constraints and to identify appropriate adjustments to the LOD and cost estimate for the Preferred Alternative. Incorporation of the results of this constructability analysis further defined potential impacts. An overview of the analysis is provided in the FEIS, Chapter 3. Construction means and methods will continue to be assessed through final design. Refer to Chapter 9, Section 3.4.A for a response on the Limits of Disturbance.
175	Montgomery Parks	DEIS-Page 4-86 Section 4.12.4	Parks supports avoidance and minimization but requests adequate LOD to ensure stable tie in for outfalls, protection and restoration of stream banks, and to improve resources on-site that are impacted by the project. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls. Based on the limited information available, M-NCPPC believes that there are numerous locations where the LOD is not adequate for construction. LOD flexibility and changes are essential to ensure adequate environmental protection and cost-effective construction. The current LOD is based on standard roadway sections and modeling, and with better information from field investigations and further design, the LOD will need to be adjusted. The current LOD is preliminary and it should not be locked in at this point for the remainder of the project. The issue is that the P3 process may not provide the flexibility to adequately modify the LOD; This has been an issue with the Purple Line Project. As M-NCPPC has learned with many other projects, including the Purple Line, creating a “right sized” LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.	See responses to Comment #5 and #47.
176	Montgomery Parks	DEIS-Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.	See response to Comment #56.
177	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will provide tree species, locations, and planting requirements for forest mitigation as outlined in the memo sent to MDOT SHA.	MDOT SHA has been and will continue to coordinate with M-NCPPC regarding forest impacts on parkland and potential mitigation. Commitments made as part of this coordination are included in this FEIS, Chapter 7.

No.	M-NCPPC Department	Reference	Comment	Response
178	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.	See response to Comment #138.
179	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will require that access and hauls roads comply with Park Standards to protect existing resources. These measures are not mitigation but are part of operating on parkland.	The Developer is required to comply with all applicable laws , regulations and best practices in the course of constructing the project, including MOSH/OSHA and coordination with officials with jurisdiction over park properties. Further, the Developer must submit, implement and comply with its approved Quality Management Plan and will be monitored for non-compliance.
180	Montgomery Parks	DEIS- Page 4-101 Section 4.16.4	M-NCPPC appreciates the commitment from MDOT SHA to implement the maximum forest mitigation plantings within the affected watersheds. Parks expects to work collaboratively on locations on Parkland for trees removed from parkland.	See response to Comment #177.
181	Montgomery Parks	DEIS -Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.	See response to Comment #139.
182	Montgomery Parks	DEIS - page 4- 108 Section 4.18.3 Table 4-29	The proposed increase in new impervious across all the affected watersheds is extraordinary. There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.	Refer to Chapter 9, Section 3.4.E for a response to impact analysis and mitigation of water resources, including wetlands, waterways, and stormwater management. See response to Comment #132 for second paragraph.
183	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.	See response to Comment #140.
184	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	More emphasis needs to be put on the protection and restoration of aquatic habitat within identified sensitive aquatic resources. This is made more critical given the proposed longer culvert lengths. Culverts should holistically be installed/rehabilitated/replaced with an environmentally sensitive culvert design strategy. M- NCPPC looks forward to continued collaboration "in the future as part of the design and construction coordination.	See response to Comment #132.
185	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Fish relocation from dewatered work areas on parkland will be required; this is not considered minimization or mitigation; it is a requirement.	Any fish present within streams that require dewatering on park land will be relocated prior to dewatering the work area.

No.	M-NCPPC Department	Reference	Comment	Response
186	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.	<p>The FEIS Unique and Sensitive Areas section only includes unique and sensitive areas with publicly available GIS data mapping. The Cabin John Biodiversity area is included in the Green Infrastructure Hub shown on the unique and sensitive areas mapping.</p> <p>Because the Northwest Stream Valley Best Natural Area and Rock Creek Pooks Hill Biodiversity Area are located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
187	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted 2017 Park, Recreation, and Open Space (PROS) Plan. Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance Rare, threatened, endangered or watch-list species The best examples of unique plant communities found in Montgomery County Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance Rare, threatened, endangered or watch-list species The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy Special Trout Management Areas as noted in COMAR Title 08 Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts. Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.</p>	<p>The FEIS Unique and Sensitive Areas section only includes unique and sensitive areas with publicly available GIS data mapping. The Cabin John Biodiversity area is included in the Green Infrastructure Hub shown on the unique and sensitive areas mapping.</p> <p>Because the Pooks Hill Biodiversity Area in Rock Creek, Forest Glen Biodiversity Area in Rock Creek, and Northwest Branch Stream Valley Bets Natural Area are located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>

No.	M-NCPPC Department	Reference	Comment	Response
188	Montgomery Parks	DEIS-Page 5-9 Table 5-2	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper- Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.	See response to Comment #7.
189	Montgomery Parks	DEIS- Page 5-12 Table 5-3	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper- Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.	See response to Comment #7.
190	Prince George's Planning	DEIS- App. A Alternatives Technical Report pg. 103	How are the mitigation costs incorporated into the financial viability analysis if they are unknown at this point? It is a percentage of the total project cost?	As noted previously, in the DEIS, the mitigation costs were included as a lump sum estimate. In the FEIS, more detailed mitigation costs were calculated.
191	Prince George's Planning	DEIS- App. B Traffic Analysis Report pg. 81	We question whether +/-20% is an acceptable range? That seems like an especially large margin when we are discussing peak traffic volumes.	See response to Comment #111.
192	Prince George's Planning	DEIS- App. F Page 5 Section 1.2.2 App. F Draft Section 4(f) Eval	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper restoration and mitigation is reached. As a landowner M-NCPPC will determine the restoration of temporary use areas.	See response to Comment #13.
193	Prince George's Planning	Appendix N	MNCPPC staff is requesting a copy of Appendix N – Draft 404(b)(1) Evaluation for review and comment.	The 404(b)(1) Evaluation will be completed by the USACE as required by USACE regulation and will not be included in the FEIS or ROD.

No.	M-NCPPC Department	Reference	Comment	Response
194	Montgomery Planning	App. A Page 115	<p>We object to MDOT SHA's negative portrayal of reversible managed lanes as a concept. This has subjectively biased this evaluation. The rating of "low" for Alternative 13B as having a "low" ease of use due to the reversible lane system appears to overlook that a reversible lane system is very successfully in operation in the Commonwealth of Virginia on I-95 and I-395 and works quite well in a constrained environment when traffic flows are directionally peaked. This type of concept has merit precisely when space is constrained, and you are not able to widen outside the ROW. A lot of time has been spent to "bash" a concept in successful practice by VDOT for many years within the Greater Washington DC metropolitan area. While off-peak capacity and throughput are reduced, much of the negative discussion on page 115 is counter-productive and leads the reader to conclude that the final solution is already decided. This concept does have value, and the discussion should reflect that.</p>	<p>Reversible managed lanes alternatives, Alternatives 13A, 13B and 13C, would be separated from general purpose lanes by concrete barriers, as shown in the typical section figures for the Build Alternatives, refer to DEIS, Figures 2-5 through 2-7, and Figures 2-9 through 2-11. Reversible lanes are more effective where there is a significant directional split in traffic. Similar to contraflow lanes, traffic data revealed that I-495 traffic is fairly evenly split by direction and peak period. As a result, the direction of traffic that is not benefitting from the reversible lanes would experience the same congestion as the No Build Alternative, and there would be no improvement in trip reliability in that direction. Additionally, switching the reversible system and ensuring that vehicles do not enter in the wrong direction (a potential safety hazard) would require extensive, daily maintenance due to the length of the improvements. On I-270, the existing HOV lane in both directions would be converted to reversible managed lanes. While the directional traffic split on I-270 is greater than I-495, many of the same operational issues would exist including losing capacity during the period when the lanes are closed to switch directions, safety concerns associated with ensuring vehicles do not enter in the wrong direction, extensive daily maintenance, and potential confusion from time-of-day restriction.</p> <p>In addition to the operational and logistical issues identified above, the contraflow and reversible lanes alternatives would only provide capacity in one direction on I-495 and I-270 and therefore, would not address existing and long-term traffic growth, would not improve trip reliability, would not accommodate Homeland Security or emergency events, or improve the movement of goods and services.</p> <p>Refer to Chapter 9, Section 3.3.B for a response to Analysis of Alternatives Retained for Detailed Study.</p>
195	Montgomery Planning	App. B Page 65 Section 3.3 Traffic Tech Report	<p>Please document how you determined that peak spreading would reduce and how this would vary by alternative. How does this peak spreading affect transit and HOV usage? On I-270, there is significant traffic flow outside of the peak period, and general-purpose traffic relies on the use of the existing HOV lane (when HOV usage is not enforced) to travel on I-270. With the elimination of this off-peak benefit, to what extent will some of this traffic shift back to the peak period? In order to determine this accurately, you would need to understand the elasticity of travel patterns, and to what extent typical driver behavior has been shaped by congestion. So, if the American Legion Bridge will continue to be congested in the general-purpose lanes even with the managed lanes in place, is the price offered in the managed lanes enough enticement to shift when drivers start their commute? The FEIS should include considerably more evaluation of the off-peak hours and a more refined evaluation of peak spreading.</p>	<p>Increased throughput during the peak hour was the primary indicator that an Alternative would reduce peak spreading, combined with a corresponding reduction in demand during the shoulder hours (6:00 AM, 9:00 AM, and 3:00 PM).</p> <p>The operational analysis accounted for the conversion of the HOV lane to a HOT lane, which currently operates as a GP lane for 21 hours out of the day. From an operational perspective, the 21 hours in which the lane functions as a GP lane today reflect the off peak direction of travel and/or off peak times of day. Therefore, the extra GP lane isn't generally needed during those times. Under the Preferred Alternative, we replace the GP lane with 2 HOT lanes. So while each of the HOT lanes individually has a lower capacity than the GP lane, the combined 2 lanes of HOT capacity essentially off-sets the GP capacity loss. As a result, we did not identify any issues with off-peak travel along I-270 under the Preferred Alternative in our models. However, replacing the HOV lane with only a single HOT lane (under Alt 8, for example) or no additional lanes in the off-peak direction (under the reversible lane alternatives, for example) would have resulted in new congestion in the off-peak direction. This impact contributed to the other alternatives operating worse than the Preferred Alternative and being dropped.</p> <p>Note that Alternative 10 would have retained the existing HOV lane, but did not receive much support. The consensus was that the minor benefits of retaining the existing HOV lane (if any) are significantly offset by the benefits of the Preferred Alternative (lower cost, lower impacts, compatibility with VDOT, etc.).</p>

No.	M-NCPPC Department	Reference	Comment	Response
196	Montgomery Planning	App. B Page 74 Section 4.1. C Traffic Tech Report	<p>The FEIS should include considerably more evaluation of latent demand and induced demand. The section on latent demand and induced demand in the DEIS is not clear and extremely vague. The first sentence notes that both latent demand and induced demand have been accounted for. Then, no data is provided to document either demand case. The last part of this paragraph seems to indicate that further evaluations on induced demand has not been conducted but will be conducted when a Preferred Alternative is selected. Please modify this paragraph to correctly state what has been done, provide a summary of that work and conclusions, and note future efforts for the Preferred Alternative with the reason that this work cannot be performed for this DEIS.</p> <p>MWCOG not having a procedure is not a valid excuse to not to perform this evaluation. These concepts are well known, and this DEIS should have spent considerable time looking into this issue. A good technical reference that should be considered for use in estimating generated traffic and induced demand has been prepared by the Victoria Transport Policy Institute.</p>	<p>Under this Study, MDOT’s goal was not to increase demand but to address current and predicted demand. Current and predicted demand in the study area could be met by adding many additional new lanes and while MDOT SHA considered adding additional general purpose lanes during the alternatives screening process, the agency ultimately recommended capacity via managed lanes. This fundamental difference is crucial to understanding why the traffic analysis shows only a very modest increase in traffic through induced demand. Most importantly, managed lanes do a better job at regulating overall travel demand, including induced demand, due to dynamic pricing. As explained in the DEIS, dynamic pricing means that as the demand for use of the managed lanes increases, the rate charged for access to the lanes also increases. This tends to regulate uses of the managed lanes in order to permit them to operate in a free-flow of traffic and at general speed of at least 45 miles per hour. Refer to the Tolling Response in Section 9.3.6.</p> <p>The traffic analysis shows that there could be some induced demand as a result of this project, but the impact will be small (less than 1 percent increase in vehicle miles traveled (VMT) in the region) and those effects are fully accounted for in the regional traffic models used in the Study developed by MWCOG. Even with these effects, the proposed managed lanes would reduce regional congestion delays and significantly improve travel times along both the I-495 and I-270 in Phase 1 South limits and on local roads throughout the study area.</p> <p>Refer to Chapter 9, Section 3.4.B for a response to traffic modeling and analysis.</p>
197	Montgomery Planning	App. B Page 107 Section 5.3 Traffic Tech Report	<p>More evaluation of likely transit and HOV use should be prepared in the FEIS with projections, not simplistic assumptions. The DEIS does not account for trips using bus service. Although transit buses will be permitted to use the managed lanes, specific transit routes are currently undetermined and therefore, appropriate bus throughput cannot be assessed at this time. As part of a DEIS, the team should have done very basic data collection to inventory existing bus routes and ridecheck data for these routes. On I-270, this would include MTA buses and some RideOn buses. This is unacceptable, when you are reporting and projecting Person Throughput and data sources are available, and I assume, the model can even be used to estimate future bus ridership. More documentation is needed in this DEIS to support what existing buses and bus ridership currently use I-495 and I-270 and how this is projected to change with the project Alternatives. Without an accurate assessment of existing and future transit ridership, how can you possibly assess modal shift?</p>	<p>The Preferred Alternative will provide opportunities for new bus routes to be developed to take advantage of the reliable free-flow trip offered by the managed lanes. MDOT SHA has initiated coordination with transit agencies that could add these routes in the future, but it will take time before any details are finalized. Therefore, to be conservative, the analysis in the DEIS and FEIS could not assume any specific bus service. However, it is noted that actual person throughput could be higher than projected if/when these additional bus services come online.</p>
198	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	<p>The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls and stream stabilization. LOD on all maps needs to allow for future designs to appropriately tie into existing Park features; this is especially true of stream channels and outfalls. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p>	<p>MDOT SHA has coordinated with M-NCPPC through virtual and field meetings to adjust the LOD to incorporate SWM facilities and outfall stabilization as appropriate on park property.</p> <p>See response to Comment #5 regarding LOD.</p>
199	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	<p>LOD will need to be updated for the FEIS to reflect the potential for additional SWM facilities. Parks has noted numerous locations where additional SWM might be possible and expects further coordination to finalize these locations</p>	<p>See response to Comment #198.</p>

No.	M-NCPPC Department	Reference	Comment	Response
200	Montgomery Parks	DEIS-General Comment App D Environmental Resource Maps	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations.	See response to Comment #23.
201	Montgomery Parks	DEIS-App D Environmental Resource Maps, Map 60, Map 64, Map 65	Cabin John and Rock Creek Stream Valley Parks both provide unique, high quality natural refuge in otherwise urbanized areas. Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Noise pollution created from anthropogenic activities has been cited as an increasing source of disruption to habitat suitability for wildlife. In addition, noise walls around natural resource areas provide auxiliary benefits of reducing human-wildlife interactions on the highway which is beneficial for human health and safety, traffic flow, and wildlife. These parks should be given particular consideration when it comes to noise abatement measures and noise walls should be considered essential to the parks' functions in providing valuable, natural refuge for both park patrons and wildlife inhabitants. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.	See response to Comment #23.
202	Montgomery Parks	DEIS-App D Environmental Resource Maps, Map 64, Map 65	Rock Creek Trail is one of the most popular trails in the DC Metro area and provides high-value natural and recreational services to the community in an otherwise urbanized environment. Noise walls adjacent to this valuable trail system and adjacent local parks are essential to providing the highest quality services to trail patrons and the surrounding human and wildlife communities. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes two new, high-occupancy toll (HOT) managed lanes on I-495 in each direction from the George Washington Memorial Parkway to east of MD 187 and conversion of the one existing high-occupancy vehicle lane in each direction on I-270 to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Rock Creek Trail is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>

No.	M-NCPPC Department	Reference	Comment	Response
203	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 69	Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at this priority location.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Sligo Creek Golf Course is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
204	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 114 and 115	Noise walls should be considered essential around Cabin John and the Robert C McDonell campground, where quiet and serenity serve a significant public need. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention, and is part of the intended objectives of campground function and appeal. Parks requires noise walls be implemented adjacent to Cabin John and the Robert C McDonell campground and anticipates a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.	See response to Comment #23.
205	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – all drainage from road should be assessed to implement the most sustainable drainage solutions, simply replacing structures in kind or in the same location is not sufficient due to the steep slopes. Parks would like to evaluate the potential for combining flows from multiple outfalls, incorporating longer pipe lengths, and other measures to reduce long term erosion. All concrete flumes should be removed. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Northwest Branch is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>

No.	M-NCPPC Department	Reference	Comment	Response
206	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 807+00 - Increase LOD to tie in new pipe into the existing degraded channel. Create step pools in the existing channel. Extend LOD to end of SHA stream polygon or approximately 250ft down channel from existing LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
207	Montgomery Parks	DEIS-	Northwest Branch STA 800+00 R- restore and enhance all outfalls on the southside of the beltway, remove concrete flumes, incorporate step pools, considering piping to outfall at lower elevations. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
208	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 801+00 L - Outfall on the North side of the Beltway and east of NWB is degraded, include entire outfall to NWB in LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
209	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R 200ft – Outfall channel within proposed access road area is degraded, integrate enhanced outfall into site stabilization after bridge reconstruction. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
210	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R – Temporary use often creates a permanent impact and will need to be mitigated for as a permanent impact.	See response to Comment #205.
211	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 797+00 The trail must be restored to park standards after construction. The trail should remain open as much as possible during construction. A detour shall be provided any time the trail needs to be closed.	See response to Comment #205.

No.	M-NCPPC Department	Reference	Comment	Response
212	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 L - Outfall degraded. Concrete flume then minor erosion down steep channel. Investigate redirecting this runoff. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
213	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+95 R - Multiple failed concrete outfalls. Holistic approach to drainage and outfall on this portion of the alignment is needed. Consider piping outfall to lower elevation then outfall for all flow in area. This location needs immediate attention from SHA. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
214	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+00 L - Potential channel restoration. Extend LOD all the way to tributary to stabilize. Consider piping this water elsewhere. Severely eroded Outfall, not sure if water is supposed to be coming to this spot or is inadvertently coming down slope. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
215	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 792+00 L - Outfall degraded, if this outfall stays in this location, expand LOD 150 down channel to build enhanced outfall. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.

No.	M-NCPPC Department	Reference	Comment	Response
216	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Brookview STA 823+00 – Investigate Potential SWM location with Parks. Due to the high impact on aquatic resources from this project all SWM opportunities near the project must be considered.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Brookview STA 823+00 is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
217	Montgomery Parks	DEIS, App. F Page 5 Section 1.2.2 App. F Draft Section 4(f) Eval	The report states “The land must be returned to a condition that is at least as good as existed prior to the project...” and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper restoration and mitigation is reached. As a land owner M-NCPPC will determine the restoration of temporary use areas.	See response to Comment #13.
218	Montgomery Parks	DEIS, App. F Page 10 Section 1.2.7 Draft Section 4(f) Eval	Parks will require additional avoidance and minimization efforts and specific parkland mitigation at a greater or equal value for each property before agreeing to any de minimis impact. This statement applies for all parkland affected by the project.	See response to Comment #13.
219	Montgomery Parks	DEIS, App. F Page 11 Section 1.2.8 Draft Section 4(f) Eval	M-NCPPC, as the designated applicant to NCPC for any proposed changes to parks funded by the Capper- Cramton Act, will need a complete understanding and commitment from SHA regarding parkland impacts and mitigation before approval from NCPC is sought for the affected parks. This will include, but is not limited to, extensive impact minimization, adequate stormwater management controls, on-site restoration, on-site mitigation, off- site mitigation, and parkland dedication. At the appropriate time Parks would expect SHA to provide necessary information for any potential submission to NCPC.	Refer to Chapter 9, Section 3.4.A for a response to Limits of Disturbance and see responses to Comment #8 and #13.
220	Montgomery Parks	DEIS- App. F Page 18 Section 2, Draft Section 4(f) Eval	Parks expects further development of mitigation plans for parkland before the FEIS and ROD. In addition, a process for modifying the LOD and mitigation plans must be produced as part of the ROD and FEIS to ensure park resources are adequately protected during advanced design.	See responses to Comment #13 and #47.
221	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 220+00 L – from River Road to STA 215+00 consider stream improvements and stabilization. All outfalls should have stable tie-in to Cabin John Creek and consist of plunge pools and step pools.	The design will be required to have stable outfalls. MDOT SHA notes M-NCPPC's preference for outfall enhancement in this area and their desire will be shared with the Developer.

No.	M-NCPPC Department	Reference	Comment	Response
222	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- M-NCPPC appreciates that statement that the stream improvements where Cabin John creek flows under highway “may be considered during final design,” however incorporation of these improvements should occur before final design as this area is clearly within the LOD of the project and should be designed in coordination with the roadway design.	The stream improvements where Cabin John Creek flows under the highway are being considered as park mitigation. See FEIS Chapter 5, Section 5.14 and Chapter 7 regarding the mitigation commitments.
223	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- Ensure fish passage under Cabin John Parkway for Booze Creek. MCDEP is currently completing a stream restoration upstream of Cabin John Parkway and ensuring safe fish passage is critical at this location.	This culvert is not being replaced or altered as part of the project and therefore fish passage will not change at this location due to the project.
224	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- restrict LOD to ROW along south side of Cabin John Parkway. Parks looks forward to dressing needed LOD changes as part of the FEIS development.	The roadway design and LOD for the Preferred Alternative has been modified to generally stay within existing right-of-way and minimize park impacts along southbound Cabin John Parkway to the greatest extent practicable. Anticipated park impacts remain on the south/west side of Cabin John Parkway near I-495 for potential augmentation of the existing culvert that crosses under Cabin John Parkway. Refer to FEIS, Appendix E, Environmental Resource Mapping.
225	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 491+50 L - Currently outfall is stable. LOD provided is in Rock Creek for culvert replacement. Include bank stabilization of Rock Creek on right bank and stable outfall transition. Repaired and replaced culvert should have a natural channel bottom and promote fish passage. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Rock Creek is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
226	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 489+00 L - Outfall not shown on SHA maps. Will need to be labeled, addressed a stable transition into Rock Creek accommodated in the design and LOD.	See response to Comment #225.
227	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 493+50 L - Expand LOD to include enhancing outfall to Rock Creek. MDOT SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.
228	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - The right bank of Rock Creek will need to be stabilize and improved from 482+00 to 493+00. LOD expansion to include this work is required. If retaining wall is replaced, additional LOD and stream and bank restoration will be required. MDOT SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.

No.	M-NCPPC Department	Reference	Comment	Response
229	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 490+00 R - Restore trail after project. Keep trail open or provide detour during construction. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Elmhirst is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
230	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 - M-NCPPC previously asked for MDOT SHA to provide justification for the need for a new pipe and impacts to stream. New culvert should have a natural channel bottom and promote fish passage. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.	See response to Comment #229 regarding impacts at Elmhirst and response to Comment #132 related to aquatic habitat.
231	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R - Include stream restoration with in-stream structures and stream stabilization.	See response to Comment #229.
232	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R 300ft - Expand LOD for stream and trail work. Coordinate LOD and design with Parks. This work is required to make the resources whole.	See response to Comment #229.
233	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Address trash being washed down from roadway, clean up during construction and add trash racks to all inlets. M-NCPPC appreciates the response that MDOT SHA will coordinate with M- NCPPC on this issue. Commitment from MDOT SHA to provide maximum water quality protections at all inlets is requested.	See response to Comment #225.
234	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Stabilize bank in this reach due to close proximity to highway. If MDOT SHA does not want to include the bank stabilization in this location, extensive documentation of how the bank and stream will not be impacted by the proposed work is required.	See response to Comment #225.
235	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 484+50 L - Need to stabilize existing outfall tie in to Rock Creek. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.
236	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 L 200ft - In conjunction with outfall add riffle over WSSC crossing and stream structure at bend, stabilize bank.	See response to Comment #225.

No.	M-NCPPC Department	Reference	Comment	Response
237	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 - Daylight outfall earlier, do not pipe directly into Rock Creek. Expand LOD to allow for the day lighting of this outfall pipe. This pipe is already shown to be fixed by the project, Parks is requesting a common sense change in LOD to maximize the benefit of fixing this outfall. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.	See responses to Comment #225 and #132.
238	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 472+00 L - Restore tributary with appropriate stream structures and stabilize bank with tie in to Rock Creek. Expand LOD to include tie in to mainstem.	See response to Comment #225.
239	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 463+00 L - Previous comment: Unclear why this LOD bump out is so large here. Need justification to approve Site visit and /or details about drainage facility. MDOT SHA response: This LOD bump out is to accommodate an augmenting existing drainage facility. This concern will be discussed as part of the ongoing coordination process and will be addressed in the Final Section 4(f) evaluation. M-NCPPC requests a site visit to discuss this LOD before the FEIS.	See response to Comment #225.
240	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 462+00 L -Stabilize outfall with plunge pool and fix degraded area. Catch trash and road grit. Limit LOD in high quality area. M-NCPPC requests a site visit to discuss this LOD before the FEIS.	See response to Comment #225.
241	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 458+00 L- Outfall degraded. Concrete flume with significant road grit and trash. Remove concrete, stabilize and install grit separator. M-NCPPC requests a site visit to discuss this LOD before the FEIS. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.	See response to Comment #225.
242	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 466+00 L - Potentially cut back pipes and day light culvert, install structure to stabilize and tie in to Rock Creek. Expand LOD to include stream tie in. M-NCPPC requests a site visit to discuss this LOD before the FEIS.	See response to Comment #225.
243	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock STA 495+00 L - from station 495+00 to 500+00 tighten LOD and implement measure to protect existing forest resources outside LOD, especially trees on the stream bank. Replanting and forest enhancement will be required. M-NCPPC requests a site visit to discuss this LOD before the FEIS.	See response to Comment #225.
244	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L- Justify LOD here, should tighten LOD to the ROW. M-NCPPC requests a site visit to discuss this LOD before the FEIS.	See response to Comment #225.

No.	M-NCPPC Department	Reference	Comment	Response
245	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L - Clogged outfall. Restore with plunge pool and remove adjacent phragmites australis. This work must be included as part of the roadway project. Adding more drainage to already degraded outfalls without improving the function is inadequate.	See response to Comment #225.
246	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 505+00 L - Add plunge pool, include channel tie in into the existing floodplain. Expand LOD for work. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources	See response to Comment #225.
247	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 510+10 - expand LOD from outfall to Rock Creek and include outfall/stream restoration. Floodplain drainage into outfall/tributary should be restored to reduce incision and enhance floodplain hydrology.	See response to Comment #225.
248	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 517+50 L – expand LOD from culvert/outfall to confluence with Rock Creek. Incorporate stream and bank restoration. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.
249	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 529+00 L - Potential SWM location. If grade works stage and stockpile then add SWM to drain into Tributary. Expand LOD. Control existing invasive plants as part of site restoration. MNCPPC understands the topography may not be suitable, but we encourage all creative solutions to SWM treatment.	See response to Comment #225.
250	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 537+50 L - protect existing high quality wetland between toe of slope and Rock Creek.	See response to Comment #225.
251	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 558+00 L - failed CMP culvert. M-NCPPC appreciates the LOD extending 45' beyond outfall. Parks requests a site visit to review LOD before FEIS.	See response to Comment #225.
252	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 563+50 R - Potential SWM location, linear facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.

No.	M-NCPPC Department	Reference	Comment	Response
253	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 566+50 L - Facility Impacted. 565+00L to 599+00L include Rock Creek and 30 ft to the N/W of Rock Creek in LOD to incorporate stream improvements and bank stabilization. This area has 8-10 ft high vertical banks and is degraded from the existing transportation facility. Parks requests a site visit to review LOD before FEIS.	See response to Comment #225.
254	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 568+25 R - Highly value resource. Construct new pipe/channel/headwall to ensure that existing wetland water elevations are maintained or enhanced.	See response to Comment #225.
255	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 575+50 L - from STA 565+00 to 590+00 Rock Creek needs to be in the LOD to allow for required stabilization and improvements. The reality of having the proposed LOD so close to the bank as currently shown will impact this high value resource. Parks expects the LOD in this area to include Rock Creek and that the design will include stream restoration to enhance aquatic habitat, improve water quality, and provide bank stability. As stated to the project team previously, Parks' preference in this area would be to shift any necessary impacts resulting from widening to the south where environmental resources are of a lower quality.	See response to Comment #225.
256	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 578+00 L 200 ft - Potential stream restoration. Address incised tributary, raise stream bed to promote floodplain activity.	See response to Comment #225.
257	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 580+80 L - Outfall degraded. Address outfall drainage channel. This outfall and channel need to be included within the LOD. MNCPPC requests a field visit before the FEIS.	See response to Comment #225.
258	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 585+30 L - Potential floodplain tree planting area.	See response to Comment #225.
259	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 L 300ft - address incision in tributary on left bank of Rock Creek. Raise tributary bed. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #225.
260	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 - Incorporate improvements to Rock Creek under the beltway. Expand LOD to include Rock Creek stream to Jones Mill Road Bridge. Rock Creek will be directly impacted by the construction of roadway infrastructure, part of the project must include improvements to the creek in this area.	See response to Comment #225.

No.	M-NCPPC Department	Reference	Comment	Response
261	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 590+00 - Facility impacted, keep trail open during construction, improve trail under beltway per appropriate standards for bicycle and pedestrian safety. Previous MDOT SHA reply to this comment stated this area might be considered for mitigation. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.	See response to Comment #225.
262	Montgomery Parks	DEIS, App. F Page 58 Section 2.1.15 Draft Section 4(f) Eval	Noise abatement measures in the form of noise walls are essential around parkland in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in this Montgomery Parks' priority location. In addition, park improvements, such as renovated basketball court, playground, and other improvements in order to make the park functional again given the roadway impacts must be included at this location.	See response to Comment #23.
263	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Potential SWM location, north of Beltway, east of Sligo Creek Parkway. There are two outfalls that flow into this area. Parks suggests investigating this area for SWM. DOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Sligo Creek is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
264	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Outfall degraded. The outfall that flows onto parkland should flow into a SWM facility (referenced above) and should have a proper plunge pool. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #263.
265	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 691+00 L - Existing outfall channel from Beltway and Sienna School parking lot should be converted into enhanced outfall/SWM facility. STA 689+00 to STA 692+00. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #263.

No.	M-NCPPC Department	Reference	Comment	Response
266	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 688+50 R – Replace existing concrete flume with enhanced outfall with step pools. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources	See response to Comment #263.
267	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 L – Investigate use of parkland north of Beltway, west of Sligo Creek Parkway, and south of Forest Glen Road for Potential SWM location. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #263.
268	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 686+00 L - Outfall degraded. Extend LOD to include 30 feet beyond bank of existing drainage outfall. Construct enhanced outfall or linear SWM facility. STA 686+00 to 687+00. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.	See response to Comment #263.
269	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+50 L - Fix existing erosion gully over culvert. This is within the ROW. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #263.
270	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential stream restoration. SHA needs to install grade control structures upstream of culvert to help maintain flow through culvert. Right side of culvert has filled in and should be cleared out by SHA. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources	See response to Comment #263.
271	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential SWM location, there is an existing SWM facility, but it does not appear to be a formal facility that is maintained by any agency. This area could be used for a SWM facility built by SHA. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #263.
272	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 682+50 L - Outfall degraded. Install enhanced outfall to transition water down the slope to trail culvert. MNCPPC appreciates the commitment from MDOT SHA stating that “This outfall channel is located within the LOD. If discharges to the outfall are increased, the channel will be stabilized.”	See response to Comment #263.

No.	M-NCPPC Department	Reference	Comment	Response
273	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 683+00 - Provide trail detour or maintain trail to be open during all phases of construction.	See response to Comment #263.
274	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 R - Install instream grade control below culvert, ensure fish passage through culvert.	See response to Comment #263.
275	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 R- previous M-NCPPC comment: The SWM Facility will be impacted by the proposed road work, the Flow splitter is being impacted and Will need to be reconstructed. Other work to enhance the existing SWM facility should be investigated. MDOT SHA response: A retaining wall is used in this location to minimize impacts. Impacts to the flow splitter appear to be temporary to allow for construction. MDOT SHA will continue to coordinate with M- NCPPC and may consider expanding this SWM facility. MDOT SHA should consider any and all SWM improvements that can be included in the project and this locations represents a good location to look at expanding SWM capacity.	See response to Comment #263.
276	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+00 R- M-NCPPC requests a site visit before the FEIS for this location to review potential impacts to the stream and existing SWM facility.	See response to Comment #263.
277	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	STA 700+00 – M-NCPPC requires coordination with the Montgomery County Revenue Authority to review proposed impacts and improvements to the Sligo Creek Golf Course.	See response to Comment #263.
278	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community.	See response to Comment #263.
279	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L - Parks is supportive of further investigation of Potential SWM location on Sligo Creek Golf Course, to include repairs to adjacent parkland from the existing untreated highway runoff. Work will require an expanded LOD for further stabilization of the existing outfall stream channel and appropriate stable connections from the channel to any new stormwater infrastructure.	See response to Comment #263.

No.	M-NCPPC Department	Reference	Comment	Response
280	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the South Four Corners Neighborhood Park is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
281	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community.	See response to Comment #263.
282	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L - Parks is willing to investigate Potential SWM location on parkland MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	<p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because STA 707+00 L is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p> <p>MDOT SHA has addressed locating SWM on park property directly with M-NCPPC. MDOT SHA has incorporated sites, where feasible, into the conceptual SWM plan. Impacts associated with these facilities have been included as park impacts in the Section 4(f) Evaluation. The effort to incorporate sites into the current design and limits of disturbance included both office and field meetings to walk through each and every site M-NCPPC provided in comments on the DEIS and SDEIS.</p> <p>Based on planning level design, MDOT SHA has developed a conceptual SWM that is anticipated to meet current SWM requirements. FHWA may apply flexibility on a case-by-case basis during development of the final SWM plan post ROD if the facility benefits or enhances an activity, feature, or attribute that qualifies the property for protection under Section 4(f) with agreement by the Official with Jurisdiction.</p>
283	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.	See response to Comment #280.

No.	M-NCPPC Department	Reference	Comment	Response
284	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 743+50 R - Potential SWM location on parkland. Parks would like to investigate constructing a SWM facility adjacent to the sound wall. This area is the headwaters of Long Branch and all measure to improve water quality should be implemented. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Indian Springs is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
285	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 R - Outfall degraded, incorporate plunge pool and level spreader to maintain braided surface flow of stream system. This area is the headwaters of Long Branch and all measures to improve water quality should be implemented. Although outfall is currently stable, the proposed roadway work will impact his outfall and increase flows to this outfall, necessitating improvements.	See response to Comment #284.
286	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 744+00 R – Construct rectangular playing field on parkland to park standard as part of park reconstruction.	See response to Comment #284.
287	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 753+50 R - Ensure no impacts to tennis court.	See response to Comment #284.
288	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Facility impacted, reconstruction and improvement of basketball court will be required.	See response to Comment #284.
289	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Noise abatement measures in the form of noise walls are essential around natural resource areas and local parks in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from undue anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls at this priority location.	See response to Comment #284.

No.	M-NCPPC Department	Reference	Comment	Response
290	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 - Maximize SWM in this location in general, this is the headwaters of Long Branch. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.	See response to Comment #284.
291	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 757+00 - Extend LOD to Marshall Ave to improve channel. Channel improvements should be done in conjunction with SWM facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.	See response to Comment #284.
292	Montgomery Parks	DEIS, App. F Page 74 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 807+00 R – investigate potential SWM location here, Parks would consider providing parkland for a SWM facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #205.
293	Montgomery Parks	DEIS, App. F Page 74 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – Environmentally friendly slope stabilization and replanting must be coordinated with Parks for the entire LOD around NW Branch to ensure adequate protection of steep slopes. This park is a Best Natural Area and special consideration and protection is required.	See response to Comment #205.
294	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3685+00 R 575ft - along Tuckerman Lane outfall is degraded, outfall has filled in. If the area remains in LOD, restore outfall and channel. Please confirm if the outfall will be inspected by MDOT SHA.	The referenced outfall is no longer within the LOD. LOD in this area is provided along Tuckerman Road for MOT purposes during construction. The referenced outfall is also not within the MDOT SHA NPDES database and therefore will not be inspected by MDOT SHA. The inlets and manholes along Tuckerman are included in the Montgomery County drainage GIS layers but the outfall is not shown and has likely not been identified/catalogued due to reduced visibility from sedimentation.
295	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+50 R - along Tuckerman Lane outfall, incorporate plunge pool and stable tie in to Cabin John Creek.	MDOT SHA will ensure a stable conveyance of this outfall to the receiving channel.
296	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - along Tuckerman Ln Area designated for SWM contains thick spicebush understory and numerous large tulip poplar and sycamore trees. The area is in the floodplain of Old Farm Creek and adjacent to a wetland, therefore the area is not suitable for SWM . The outfalls in the area should be enhanced with plunge pools and step pools.	The LOD in this area has been reduced for the FEIS and the SWM location removed.

No.	M-NCPPC Department	Reference	Comment	Response
297	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - If the culvert for Old Farm Creek is lengthened or replaced, stream restoration downstream of the culvert should occur for at least 220ft. LOD should be expanded to include this section of stream.	Currently, the culvert at Old Farm Creek is not proposed to be lengthened or replaced. However, the LOD has been extended approximately 220 feet downstream from the culvert to accommodate any stream restoration or stabilization that may be identified as necessary with advanced design.
298	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3684+00 R - Area designated for SWM would be difficult to access due to retaining wall, with steep slope and trees.	In accordance with the comment, the LOD in this area has been reduced for the FEIS and the SWM location removed.
299	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3639+50 R - Area designated for SWM has numerous mature trees, understory of spice bush and large sycamores, resources critical to the area's designation as a Parks Biodiversity Area. SWM location will need to be revised. M-NCPPC agrees that there are limited locations for SWM. We are ready to work with MDOT SHA to revise the proposed SWM location. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing the SWM in a way that fits in with the resources at the site. This area is designated as a biodiversity area due to the high-quality forest resources. As the SWM is proposed, the impacts to the forest interior are too great to sustain. Revising the footprint of the SWM to be more linear along the highway, generally extending no further than 25' into the forest from the existing natural surface trail, would greatly reduce forest impacts and provide ample room for SWM. M-NCPPC acknowledges the existence of a wetland that the proposed SWM is trying to avoid, however, by avoiding any wetland impacts, the overall degradation to the natural environment is greater in this location due to the forest interior impacts and the relatively low quality of the existing wetland. In fact, the wetland hydrology appears to be mainly provided from an untreated highway outfall and the hydrology may be impacted by the creation of any SWM in this area. M-NCPPC recommends designing the SWM in a way that may impact a portion of the existing wetland footprint (which is PEM wetland along the leading edge next to the highway), but ultimately enhancing the wetland by providing a source of treated water as one the main hydrological inputs.	In accordance with this comment and as a result of coordination in the field, the SWM proposed in this location has been re-designed to be more linear and to minimize encroachment into the forest. Redesign in this area is reflected in the Preferred Alternative LOD shown in the FEIS. Detailed stormwater design will be considered by the Developer during final design.
300	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3640+00 R - degraded outfall channel with headcut will need to be restored. This outfall is severely incised to the confluence with Cabin John Creek and must be restored along the entire length to be able to sustainably handle the proposed increased flows from the highway improvements. In addition, the proposed SWM work adjacent to the channel will also work in conjunction with a restored outfall channel. Raising the stream bed elevation of this channel will positively influence the hydrology of the adjacent wetland area, negating some of the possible impacts to the wetland by the M-NCPPC proposed SWM location (see comment above).	The FEIS LOD has been extended in this location to accommodate the requested stream restoration, which is necessary to accommodate proposed culvert augmentation.
301	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3635+00 R - to 3640+00 R The natural surface trail must be re-routed through or around any proposed SWM facility in accordance with M-NCPPC trail guidelines and specifications.	The Preferred Alternative would result in permanent impacts to the connecting trail between the Highway Loop Trail and the Kidney Bean Loop Trail. The natural surface trail would be relocated around proposed facilities in accordance with M-NCPPC trail guidelines and specifications.
302	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3628+00 L - suggested location for SWM, avoid mainstem stream. Degraded outfall. Although the area is limited, every effort should be made to provide onsite treatment of SWM. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing SWM in this location as there is existing highway drainage and favorable topography. M-NCPPC can justify the small impact to the forest edge for the benefit of stormwater treatment in this important watershed.	The design will address unstable outfalls within the LOD. See response to Comment #304.

No.	M-NCPPC Department	Reference	Comment	Response
303	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L - restore degraded outfall from roadway. As observed during the site visit with SHA representatives on 10/28/20 M-NCPPC, there is an existing steep, severely eroded outfall (may be surface drainage) that will need to be restored.	The design will address unstable outfalls within the LOD. See response to Comment #304.
304	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L – As discussed during the site visit with SHA representatives on 10/28/20 M-NCPPC does not see a need for culvert capacity augmentation at this location. Any upstream alterations to the 100 yr floodplain will occur solely on M-NCPPC property and will not affect any built infrastructure. The installation of an augmented culvert will have unjustified impacts for little to no resource benefit. The existing culvert extension should be limited as much as possible since the stream is very stable on both the upstream and downstream ends of this project. M-NCPPC will require limited stream work (cross channel grade control, stone toe, etc.) to maintain the stable nature of the stream at both ends of the culvert.	MDOT SHA appreciates M-NCPPC's comment and willingness to accept floodplain increases on their property, however, culvert augmentation may be needed at this location for public safety and to meet current MDOT SHA regulations, which require that the 100-year storm not overtop I-270. Detailed hydraulics and hydrology calculations will be performed during final design to confirm if culvert augmentation is required. MDOT SHA recognizes that this stream crossing is an environmentally sensitive resource and as such, additional JPA restrictions have been placed on the LOD both upstream and downstream of this culvert. In these JPA restricted areas, USACE and MDE approval of final design is required prior to conducting any clearing or construction.
305	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 466+50 R - Potential SWM location. Area receives runoff from outfall, degraded area with invasive plants. Treat invasive species if selected for SWM. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Locust Hill is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
306	Montgomery Parks	App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+00 - Tie existing stream work into outfall as directed by Parks. Current LOD is appropriate for culvert work, but would need to be larger for potential SWM facilities. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #305.
307	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+10 R - Significant tree. There is a large sycamore within the LOD that should be protected and preserved.	See response to Comment #305.

No.	M-NCPPC Department	Reference	Comment	Response
308	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 468+50 R - Potential SWM location. There is a small clearing, Parks suggests investigating SWM in this location MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.	See response to Comment #305.
309	Montgomery Parks	DEIS- App. F Page 149 Section 3.1 Draft Section 4(f) Eval	Parks requests a meeting to go through the comments that concern avoidance and minimization of parkland impacts. There are numerous instances where an LOD expansion is required to appropriately address resource impacts, protection, and restoration. Alternatively, there are locations where further avoidance and minimization need to be considered to reduce the LOO. In addition, Parks would like to discuss SWM locations on parkland that are described in our comments. We look forward to the opportunity to collaboratively address each of these issues. As M-NCPPC has learned with many other projects, including the Purple Line, creating a "right sized" LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.	MDOT SHA and M-NCPPC have had numerous office and field meetings to discuss the LOD and impacts to specific park properties within Montgomery County. Based on this coordination, the design was refined and the LOD adjusted as appropriate. See responses to Comment #5 and #47.
310	Montgomery Parks	DEIS-Appendix K – Public Phase 1 Mitigation Design Plans – AN-6 Paint Branch Fish Passage	There are documented "Full Blockages" to fish migration upstream of Floral Drive on the FDA White Oak Research Campus, as identified in an August 2020 MWCOG Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account will significantly limit the estimated 5,258 LF of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch SPA, near Briggs Chaney Road.	As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the FDA White Oak Research Campus is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
311	Montgomery Parks	DEIS- Appx L 2.3.4 page 32	M-NCPPC appreciates the commitment to minimizing impacts. In order to effectively implement the second tier of avoidance and minimization, M-NCPPC requests that MDOT SHA produce a detailed process as part of the ROD that outlines how LOD modification will occur to ensure that actual resource protection and enhancement can be achieved.	See responses to Comment #5 and #47.

No.	M-NCPPC Department	Reference	Comment	Response
312	Montgomery Parks	DEIS-App L NRTR Page 38 Section 2.3.4	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will ensure that SHA is unable to adequately address SWM needs and aquatic resource protection and enhancement. Parks does not agree that the "LOD would not need to be enlarged" because as Parks has stated some of the SWM proposed is not feasible and other opportunities will need to be considered.	See response to Comment #132.
313	Montgomery Parks	DEIS, App L NRTR Page 51 Section 2.4.2	Report acknowledges that Rock Creek was already relocated for beltway construction. SHA must commit to providing a net benefit to Rock Creek by expanding the LOD as directed by Parks to provide bank stabilization, bank restoration, in stream structures, and habitat creation. Two locations where Parks expects this to occur are near Cedar Lane and Jones Mill Rd. The LOD must be appropriate to restore and protect resources directly affected by the roadway project as part of the roadway design and construction and not as mitigation. The LOD directly on a stream bank is not considered minimized as it relates to Section 4(f) because the location of the LOD has adverse impacts not currently being accounted for.	See response to Comment #225.
314	Montgomery Parks	DEIS, App L NRTR Page 83 Section 2.4.4	Report states. that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.	See response to Comment #132.
315	Montgomery Parks	DEIS, App L NRTR Page 145 Section 2.9.3	This project has the opportunity to correct an existing impactful situation and these culverts won't be able to be addressed in the future. All culverts should be evaluated for several factors, including stability and habitat, and the project team should identify those and plan for replacement following modern guidelines and best practices.	The culverts will continue to be evaluated as the project moves into design. Each culvert along the alignment will be evaluated for structural conditions by a structures and constructability team. The natural resources team will evaluate fish and aquatic passage at culvert crossings and the water resources team will investigate existing H&H and other design parameters. In some cases, culverts are proposed for replacement or augmentation because of existing conditions and to meet overall project goals.
316	Montgomery Parks	DEIS, App L NRTR Page 146 Section 2.9.3	SHA must ensure that the extension and replacement of culverts results in improving aquatic organism passage, not a decrease. MNCPPC is the owner of the majority of aquatic resources affected by the proposed culvert extensions, additions, and replacement, and the potential degradation of aquatic habitat and decrease in safe passage is considered a detrimental impact to Park resources.	See response to Comment #132.
317	Montgomery Parks	DEIS, App L NRTR Page 148 Section 2.9.3	Parks will require the removal of fish from dewatered work areas to limit fish mortality. The removal must be performed by staff certified through the Maryland Biological Stream Survey program. In addition, all best practices for ecological construction to limit impacts to aquatic biota must occur.	See response to Comment #185.
318	Montgomery Parks	DEIS, Appendix 4, pg 125	Station 3660+00 L. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends assessing the suitability for expanding SWM treatment on the Old Farm NCA (at the end of Tilden Ln) or designing additional SWM on the Old Farm NCA. The SWM should be kept on the highway side of the parcel with limited encroachment into the existing open space. M-NCPPC is interested in providing as many opportunities as possible for SWM and appreciates SHA's efforts in evaluating this area.	The Old Farm NCA was evaluated for a SWM location, however, only limited impervious area could be directed to this location and therefore a SWM facility was determined to not be feasible.

No.	M-NCPPC Department	Reference	Comment	Response
319	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>. Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County • Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities • High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 • Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy • Special Trout Management Areas as noted in COMAR Title 08 • Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.</p>	See response to Comment #187.
320	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.	See response to Comment #186.
321	Prince George's Planning	DEIS, General Public Involvement and Agency Involvement Technical Report	The In-Person Public Meetings held on September 1, 2020 and September 10, 2020 had limited access for Deaf/Hard of Hearing community members. Limited in person access due to Covid and no livestream allowed for telephone access only which was burdensome if one does not have a landline or has to use a Teletype to communicate.	MDOT SHA is committed to a policy of full accessibility and does not discriminate in the provision of any of its activities. An American Sign Language interpreter was available at both in-person Public Hearings. The presentations and material at the in-person Public Hearings were the same as the presentations at the four virtual Public Hearings and materials provided on the project website. In addition to accepting public comments via email, website form, and mail, public testimony was also accepted via live call and voicemail during the virtual Hearings, as well as voicemail during the in-person Hearings. An online presentation (informational display boards) was made available on the project website prior to all the hearings to provide access for Deaf/Hard of Hearing persons and those unable to attend either the in-person or virtual Public Hearings. Hearing transcripts for the 2020 in-person hearings were also made available on the project website after the hearings took place.

No.	M-NCPPC Department	Reference	Comment	Response
322	Prince George's Planning	DEIS, Conceptual Mitigation Plan Comments - General	Can the Landover Mall property be used for mitigation for Parks and Reforestation?	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p> <p>Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because the Landover Mall is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.</p>
323	Prince George's Planning	DEIS, Indirect and Cumulative Effects Report Figure 1-2	Figure does not fit on page in hard copy form. Please revise.	Formatting issues have been addressed in the FEIS.
324	Prince George's Planning	DEIS, Compensatory Mitigation Plan Report	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project	MDOT SHA coordinated with M-NCPPC between the DEIS and the FEIS regarding compensatory wetlands and waterways mitigation to ensure they had an opportunity to participate in the mitigation process and provide comments on the draft and final Compensatory Wetlands and Waterways Mitigation plans.
325	Prince George's Planning	DEIS, Traffic Technical Report Comments	Insufficient Analysis of the ICC Alternative. MD 200 Diversion Alternative should be studied in more detail with various modeling assumptions including with or without the I-95 segment.	See responses to Comment #15 and #141 and refer to Chapter 9, Section 3.2.B for a response to Alternatives Not Retained for Detailed Study.
326	Prince George's Planning	Purpose and Need Comments – General	Reiterate the MNCPPC Non-Concurrence with the ARDS of this project	Noted.
327	Prince George's Planning	DEIS-SWM	Find ARDS and PN comments on SWM locations that flood.	It is unclear what comments are being referenced in this comment. However, the FEIS includes a more detailed SWM analysis, including calculations of required and provided SWM volumes. The project will be required to manage the proposed 10-year discharge to match the existing 10-year discharge.
328	Prince George's Planning	DEIS- Environmental Justice Technical Report Comments	Incorporate Social Justice concerns into analysis and mitigation requirements.	See response to Comment #147.
329	Prince George's Planning	JPA, Impact Plate A, Impact Plate 23	Plate 23A – 1200- LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Park.	See response to Comment #34.
330	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12SS-PFO – LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Road State Park.	See response to Comment #34.
331	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ- LOD is unrealistic. Please expand the LOD it includes impacts to wetlands and waterways.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because impacts referenced on Plate 25A - 12QQ is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

No.	M-NCPPC Department	Reference	Comment	Response
332	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ – why are the proposed Stormwater Management Facilities not shown in this location?	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because impacts referenced on Plate 25A - 12QQ is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
333	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12OO_1 – a foot path utilized by Cherry Hill Road State Park users is located downstream in line with Cell 4 of the 4-cell culvert. What is the plan for this culvert and how will the project design prevent the downstream erosion of this foot path?	See response to Comment #34.
334	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – what is the proposed access for the proposed Stormwater Management Facility?	See response to Comment #34.
335	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A-Henry A Johnson Park – culvert located at Station 1425+01 appears undersized and damaged. Please provide culvert detail.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because Plate 40A - Henry A Johnson Park is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
336	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – existing Noise Barrier is not providing adequate noise abatement for park users. Location has significant roadway noise during off-peak hours. Relocating the Noise Barriers to the proposed LOD will impact the quality of the park use.	See response to Comment #335.
337	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – 7C-PEM. There appears to be a wetland just beyond the LOD at 7C-PEM in the swale at the basketball court. Was this location field delineated? There was no wetland flagging present at the time of the field visit in August 2020.	See response to Comment #335.
338	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – why is the proposed Stormwater Management Facility for this location not shown on the impact plates?	See response to Comment #335.
339	Prince George's Planning	JPA, Impact Plate A, Impact Plate 54	Plate 54A – Andrews Manor Park – how will construction and maintenance access be provided to this site and facilities? Currently, the only access is from the shoulder on the Capital Beltway.	Your comment had been identified in the DEIS related to build alternatives that would have spanned the entire study area. Because impacts referenced Plate 54A - Andrews Manor Park is located outside the Preferred Alternative limits of build improvements, those impacts have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.
340	M-NCPPC to USACE and MDE	General	The Corps and MDE should deny the requested permits because MDOT SHA has failed to substantively consider practicable alternatives that have fewer environmental impacts.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.
341	M-NCPPC to USACE and MDE	General	Work performed under the requested permits would require use of the Commission's CCA properties, which MDOT SHA cannot authorize.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.
342	M-NCPPC to USACE and MDE	General	The JPA and supporting documents fail to adequately address required mitigation of environmental impacts.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.
343	M-NCPPC to USACE and MDE	General	The limits of disturbance in the DEIS and incorporated into the JPA do not adequately address the likely impacts of the project on aquatic resources.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.

No.	M-NCPPC Department	Reference	Comment	Response
344	M-NCPPC to USACE and MDE	General	The JPA and supporting documents are inconsistent with Section 106 of the National Historic Preservation Act.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.
345	M-NCPPC to USACE and MDE	General	MDE should review MDOT SHA’s Clean Water Act Section 401 Water Quality Certification application sooner in the JPA process, and require MDOT SHA to submit further supporting information.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.
346	M-NCPPC to USACE and MDE	General	The Coastal Zone Management Act consistency determination should be made sooner in the process.	Thank you for including comments for USACE and MDE. MDOT SHA has forwarded them.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

From: Lyman, Jack <jlyman@akingump.com>
Sent: Monday, November 9, 2020 7:13 PM
To: MLS- NEPA- P3
Cc: john.j.dinne@usace.army.mil; MDE.SHAprojects@maryland.gov; Lent, Susan; Pierce, Anthony; Gardner, Adrian; Casey.Anderson@mncppc.org; Elizabeth.Hewlett@mncppc.org
Subject: Comments re: Managed Lanes Study DEIS/Section 4(f) Evaluation
Attachments: MNCPPC DEIS Submission Final.pdf; MNCPPC JPA Submission Final.pdf

Dear Mses. Choplin and Mar:

On behalf of our client, the Maryland-National Capital Park and Planning Commission, please see the attached comment letter and appendix relating to the I-495 and I-270 Managed Lanes Study Draft Environmental Impact Statement/Draft Section 4(f) Evaluation.

We are also attaching M-NCPPC's comment letter to the U.S. Army Corps of Engineers and Maryland Department of the Environment regarding the Joint Permit Application, for your reference.

We appreciate your consideration.

Regards,
Jack Lyman

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November 9, 2020

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Re: I-495 & I-270 Managed Lanes Study – Draft Environmental Impact Statement

Dear Mses. Choplin and Mar:

On behalf of our client, the Maryland-National Capital Park and Planning Commission ("M-NCPPC" or "the Commission"), we submit the following comments regarding the Draft Environmental Impact Statement ("DEIS") prepared by the Maryland Department of Transportation State Highway Administration ("MDOT SHA") and Federal Highway Administration's ("FHWA") (collectively "the Lead Agencies") for the I-495 & I-270 Managed Lanes Study (the "Project"). The Commission has a number of key concerns with the Lead Agencies' Purpose and Need statement, the impacts to the natural and built environment the Lead Agencies identified, the alternatives they evaluated, and the mitigation they considered. The Commission's objections center on the Lead Agencies' failure to consider reasonable alternatives with fewer impacts to the environment, with a focus on the parkland and streams under the express jurisdiction of the M-NCPPC.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 2

I. Introduction

A. Maryland-National Capital Park and Planning Commission

The Maryland General Assembly created the M-NCPPC in 1927 to plan for the orderly development, acquisition and maintenance of parkland and open space, and to protect natural resources in Prince George's and Montgomery Counties.¹ Since that time, M-NCPPC has acquired several hundred parks in the two counties. Twenty-five of those parks will be directly impacted by each of the Project's Build Alternatives, and Congress has specially designated M-NCPPC to protect 10 of those parks that were acquired with federal funds under the Capper-Crampton Act ("CCA").² The Lead Agencies engaged M-NCPPC as a Cooperating Agency to provide input on the Project based on M-NCPPC's integral role as a planning agency and steward of the natural and built environments. To fulfill its role as a Cooperating Agency, M-NCPPC must ensure that the Project is undertaken in compliance with the National Environmental Policy Act ("NEPA") and that M-NCPPC undertakes its role as a cooperating agency in accordance with its statutory mandates. As a Cooperating Agency, MNCPPC staff has taken its responsibilities seriously by fully engaging with the Lead Agencies and the Interagency Working Group ("IAWG") established by the Lead Agencies during every stage of review of the Project.

The Commission members want to reassure the Lead Agencies that its comments do not reflect a decision to oppose or support the Project. Rather, as the governing body of this Cooperating

¹ The Maryland Court of Appeals has outlined M-NCPPC's regional functions as follows:

The [M-NCPPC], as its name suggests, administers parks, public recreation, and, in conjunction with the governments of Prince George's and Montgomery counties.... participates in the planning of development within the [Maryland-Washington Regional District]. Among other things, [a Maryland statute] authorizes the MNCPPC to: (1) acquire property for parks, forests, roads, and other public spaces; (2) rename streets and highways and number and renumber houses within the district to fix mistakes, remove confusion, and establish uniformity; (3) acquire, improve, and manage land for flood control purposes; (4) establish road grades in Montgomery County; and, (5) recommend amendments to the zoning laws and subdivision regulations.

Cty. Council of Prince George's Cty. v. Zimmer Dev. Co., 444 Md. 490, 526–27, 120 A.3d 677, 699 (2015) (internal citations omitted).

² Act of May 29, 1930 (46 Stat. 482), as amended by the Act of August 8, 1946 (60 Stat. 960), Section 3 of the Act of July 19, 1952 (66 Stat. 781, 791), and the Act of August 21, 1958 (72 Stat. 705).



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 3

Agency, the Commission is carrying out its responsibilities as the planning agency for Montgomery and Prince Georges Counties and as the parkland steward in these counties. The Lead Agencies are no doubt aware of the Commission's concerns regarding the environmental review process, attributable largely to their failure to undertake a comprehensive analysis of reasonable alternatives, impacts, and mitigation measures and failure to incorporate best practices in transportation, environmental protection, and land use planning. The Lead Agencies' approach is at odds with M-NCPPC's statutory obligation to make well-reasoned and informed decisions regarding parkland, cultural resources, and historical resources. Still, M-NCPPC remains committed to working collaboratively with the Lead Agencies as they continue their environmental review of the Project and apply for the required federal and state permits. The Commission's hope is that the Lead Agencies will consider changes to the Project that minimize impacts to parkland and streams and take meaningful steps to responsibly address the unavoidable impacts to parkland that would result from a selected Build Alternative.

B. Project Background

The stated purpose of the Project is to develop travel demand management solution(s) that address congestion, improve trip reliability on I-495 and I-270 within the Project limits, and enhance existing and planned multimodal mobility. The stated needs for the Project are: accommodating existing traffic and long-term traffic growth; enhancing trip reliability; providing additional roadway travel choices; enhancing homeland security; and facilitating the movement of goods and the ability of businesses to provide services. The Project limits are: I-495 from south of the George Washington Memorial Parkway in Virginia, including improvements to the American Legion Bridge over the Potomac River, to west of MD 5 in Maryland and along I-270 from I-495 to north of I-370, including the east and west I-270 spurs.³

The Lead Agencies initially screened sixteen Project alternatives. They retained five Build Alternatives plus a modified version of one of those retained Build Alternatives for detailed study, for a total of six Build Alternatives studied in the DEIS. The Lead Agencies have not identified a Preferred Alternative. They do not plan to identify a preferred alternative until they release the Final Environmental Impact Statement ("FEIS").⁴

From Fall 2018 to Spring 2019, when the Lead Agencies were undertaking the alternatives analysis and environmental technical analysis, stakeholders, including M-NCPPC and the

³ DEIS at pp. 1-1, 1-4.

⁴ DEIS at p. ES-4.

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 4

National Capital Planning Commission (“NCPC”), asked the Lead Agencies to evaluate an alternative that would divert traffic to MD 200 (also known as the Intercounty Connector or ICC) between I-270 and I-95. M-NCPPC proposed this alternative as it would avoid or reduce impacts to significant, regulated resources and mitigate the need for residential relocations. MDOT SHA and FHWA briefly considered this MD 200 Diversion Alternative, which would route drivers along MD 200 instead of the top side of I-495 between I-270 and I-95. The MD 200 Diversion Alternative assumed no widening or new capacity on the top side of I-495 between I-270 and I-95, but did consider other potential less-impactful improvements to relieve congestion (known as Transportation System Management/Transportation Demand Management, or TSM/TDM, options), such as ramp metering and hard shoulder running. MDOT SHA rejected this alternative and did not retain it for detailed study on grounds that the alternative would not provide sufficient traffic relief benefits many years down the road and was not financially viable.

II. Discussion

A. The Project’s Purpose and Need Statement presupposes managed lanes at the expense of multimodal alternatives, including transit, such that the Lead Agencies rejected reasonable alternatives from detailed study that would have fewer environmental impacts than the Build Alternatives.

NEPA requires that lead agencies planning to undertake major projects prepare a Purpose and Need Statement that defines “the underlying purpose and need for the proposed action.”⁵ Although lead agencies enjoy some deference in determining a project’s purpose and need, NEPA requires lead agencies to define the purpose and need broadly enough to ensure that the environmental review does not prematurely eliminate from consideration otherwise reasonable alternatives.⁶

The Commission argued in its letter of June 12, 2019 to the Lead Agencies commenting on the Alternatives Retained for Detailed Study (“ARDS”) that the Lead Agencies defined the Project’s Purpose and Need so narrowly as to exclude from consideration a number of reasonable

⁵ 40 C.F.R. § 1502.13.

⁶ *Simmons v. U.S. Army Corps of Eng’rs*, 120 F.3d 664, 669 (7th Cir. 1997) (finding it is a violation of NEPA to “contrive a purpose so slender as to define competing ‘reasonable alternatives’ out of consideration”).

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 5

alternatives.⁷ Put another way, the Lead Agencies drafted the Purpose and Need Statement in a way that presupposed a managed lane variant as the locally preferred alternative.

The Lead Agencies used their narrowly drafted Purpose and Need Statement to justify dismissal of alternatives that provide transportation options to a broad segment of the population and have fewer environmental impacts than newly constructed managed lanes. The Lead Agencies left themselves with a limited set of Build Alternatives that involve widening I-270 and I-495 and charging tolls for use of the new lanes. It is well-established law that Lead Agencies may not define the objectives of their action “in terms so unreasonably narrow that only one alternative ... would accomplish the goals” of their actions, rendering the EIS a preordained formality.⁸

Regardless of whether the Lead Agencies drafted a Purpose and Need Statement that was too narrow, the Lead Agencies are obligated to consider reasonable alternatives that meet Purpose and Need, and, in particular, alternatives with fewer environmental impacts. In the Purpose and Need Statement, the Lead Agencies “[recognized] the need to plan and design this project in an environmentally responsible manner.”⁹ Nevertheless, every Build Alternative retained for study in the DEIS would impose profound impacts to M-NCPPC parklands and other natural and environmental resources. Indeed, all of the Build Alternatives assume the elimination of certain resources maintained by M-NCPPC that simply are irreplaceable. Applying the test of common sense, a NEPA process that results in such serious environmental consequences should only follow a careful balancing of the environmental options and opportunities against the ultimate purpose and need of relieving congestion on an overutilized road system. But this NEPA process never attempted any balancing because it unreasonably and artificially constrained its attention to avoid the serious study of any alternative that would meet the Purpose and Need by reducing demand for car trips through inter-modal transit, the MD 200 Diversion Alternative (discussed further below), or otherwise.

In this respect, by excluding any detailed analysis, the DEIS’ analysis of the Build Alternatives falls short of NEPA’s mandate to utilize environmental analyses to inform the selection of an alternative that avoids and minimizes the impacts that any Build Alternative would create.¹⁰ In

⁷ Letter from Elizabeth M. Hewlett and Casey M. Anderson, M-NCPPC, to Jeanette Mar and Lisa Choplin (June 12, 2019), https://montgomeryplanningboard.org/wp-content/uploads/2019/11/I-495-I-270-Managed-Lanes-Study-Nov-15-2019-Memo-attachments_web.pdf.

⁸ *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

⁹ Purpose and Need Statement, DEIS Appendix A, at p. 17.

¹⁰ *See* 40 C.F.R. § 1505.2 (“each agency shall...[s]tate whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.”); *Pub.*

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 6

other words, the Lead Agencies have failed to consider the differential impacts from its proposed alternatives in violation of NEPA’s mandate to “consider fully the environmental effects” of the proposed action.¹¹ Instead, the weight of environmental impact against other criteria must be appropriately balanced due to the highly developed nature of the Study Area, where the remaining environmental resources are finite and, in many cases, irreplaceable. Any reduction in environmental impact must be weighed heavily in narrowing the Alternatives to be studied and eventual selection of the Preferred Alternative.

The Purpose and Need Statement focused on managed lane solutions to accommodate travel demand within the Maryland I-495 and I-270 study area. Rather, a broader, more holistic approach that considers multi-modal improvements and encourages more efficient development would be more consistent with regional federal policies such as the NCPC’s Comprehensive Plan in addition to the local and regional planning policies contained in the functional and master

Employees for Envtl. Responsibility v. Beaudreu, 25 F. Supp. 3d 67, 130 (D.D.C. 2014) (U.S. Fish & Wildlife Service did not make an independent determination about whether a feathering operational adjustment was a reasonable and prudent measure necessary or appropriate to minimize a wind project’s impact on listed species); *Cowpasture River Pres. Ass’n v. Forest Serv.*, 911 F.3d 150, 176, 183 (4th Cir. 2018) (U.S. Forest Service “abdicated its responsibility to preserve national forest resources” in part by reversing its decision on whether mitigation measures would effectively minimize environmental impacts to groundwater and surface waters).

¹¹ *Theodore Roosevelt Conservation P’ship v. Salazar*, 616 F.3d 497, 503 (2010) (D.C. Cir. 2010); *see also Matthews v. United States Dep’t of Transp.*, 527 F. Supp. 1055, 1057 (W.D.N.C. 1981) (agencies cannot “eliminate from discussion or consideration a whole range of alternatives, merely because they would achieve only some of the purpose of a multipurpose project”). Although “the range of alternatives an agency must consider and discuss under NEPA” is within the agency’s discretion, the agency’s choice of alternatives should be “evaluated in light of its reasonably identified and defined objectives.” *Ctr. for Food Safety v. Salazar*, 898 F. Supp. 2d 130, 146 (D.D.C. 2012).

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 7

plans of Prince George’s and Montgomery Counties.^{12,13} Under these circumstances, the exclusion from study of multi-modal transit or any other alternative that is more favorable in avoiding environmental impacts constitutes a gross failure to comply with NEPA’s mandate.

The Lead Agencies’ protestations that toll revenue is the only way to fund mobility improvements in the Project area also ring hollow. There are uncertainties associated with the Project’s financing, such as interest rates, construction costs, and now demand for toll lanes given the shifts in travel patterns caused by the COVID-19 pandemic. As a result, the managed lane alternatives likely may require public funding to supplement shortfalls in toll revenues. In light of the uncertainty as to whether the Project could be paid for through a public-private

¹² For example, Prince George’s County’s most recent transportation planning policy—the 2009 Master Plan of Transportation (“MPOT”)—focuses on three elements of transit in the Capital Beltway region: promoting Transit-Oriented Development at existing transit stations; making use of the Woodrow Wilson Bridge transit compatibility; and extending the Purple Line. Specifically, the MPOT identifies a “Future Fixed Guideway Transit” along portions of the beltway from Woodrow Wilson Bridge to the National Harbor area and a “Purple Line Extension Evaluation Corridor” in the text as well as accompanying mapping. The MPOT also recommends that the transit system play a more geographically comprehensive role in ensuring quality access and mobility options for all residents and workers throughout the county. *See* M-NCPPC, Approved Countywide Master Plan of Transportation (Nov. 2009), http://mncppcapps.org/planning/publications/BookDetail.cfm?item_id=238&category_id=1&name=&pricemin=&pricemax=&author=&Pubs_year=&price=&. Additionally, the county’s Plan 2035 seeks to prioritize the Purple Line Extension from New Carrollton to the Woodrow Wilson Bridge as well as a proposed route that traverses the beltway. M-NCPPC, Plan Prince George’s 2035 Approved General Plan (May 2014), http://mncppcapps.org/planning/publications/BookDetail.cfm?item_id=279&Category_id=1.

¹³ In Montgomery County, the Corridor Cities Transitway project (“CCT”) was a component of the I-270/US 15 Multimodal Corridor Study (2002) and that study’s subsequent DEIS. MDOT, Multi-Modal Corridor Study Draft Environmental Impact Statement and Section 4(f) Evaluation (May 2002), <https://www.i270multimodalstudy.com/environmental-studies/deis.html>. In this document, the CCT accompanied highway improvement proposals as part of a *packaged* solution for corridor mobility, in order to improve mobility for the upper portion of the corridor. The CCT and the I-270 highway improvement proposals co-existed in a subsequent Alternatives Analysis/Environmental Assessment (“AA/EA”). MDOT, Multi-Modal Corridor Study Alternatives Analysis/Environmental Assessment (May 2009), <https://www.i270multimodalstudy.com/environmental-studies/aaea.html>. The projects were decoupled in 2010, at which time the State determined the CCT had “independent utility” from the highway improvements and produced a Supplemental EA for the CCT only. MDOT, Multi-Modal Corridor Study Supplemental Environmental Assessment (Nov. 2010), <https://www.cctmaryland.com/index.php/supplemental-environmental-assessment-sea-document>. The decoupling allowed the CCT to advance independently and not be held back by the highway improvements. Some design work for the CCT has been completed, and MDOT released another EA in 2017 reflecting the same. MDOT, Multi-Modal Corridor Study Environmental Assessment (Aug. 2017), <https://www.cctmaryland.com/index.php/about-the-project/studies-reports>. In addition to the CCT, various Planning Department studies and master plans, including the Countywide Transit Corridors Functional Master Plan, White Flint 2 Sector Plan, Shady Grove Minor Master Plan Amendment, and MARC Rail Communities Plan, discuss enhancements to MARC (commuter rail).



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 8

partnership (“P3”), the Lead Agencies should not have rejected alternatives like the MD 200 Diversion Alternative or transit options based on the fact that they may require additional public funds. Restricting alternatives only to managed lanes is not reasonable in the DEIS stage. Rather, the Lead Agencies should have considered alternatives that have fewer environmental impacts.

To be clear, the Commission is not advocating that the Lead Agencies designate a transit alternative as the locally preferred alternative. Rather, the Commission’s position is that the Lead Agencies should have considered the MD 200 Diversion Alternative and multimodal options and evaluated them against the managed lane alternatives as part of the NEPA process, so that the relative environmental impacts of the managed lanes alternatives can be fully understood.

B. MDOT SHA and FHWA failed to study in detail the MD 200 Diversion Alternative.

Lead agencies must consider “a reasonable range of alternatives that are technically and economically feasible” and “meet the purpose and need for the proposed action.”¹⁴ Where there are a large number of possible alternatives, Lead Agencies need not study every reasonable alternative, but a “reasonable number of examples, covering the full spectrum of alternatives must be analyzed and compared in the EIS.”¹⁵

As noted above, the Lead Agencies stated in the DEIS that they did not study the MD 200 Diversion Alternative because it did not meet the Project’s purpose and need of accommodating long-term traffic growth, enhancing trip reliability, or improving movement of goods and services.¹⁶ More specifically, the Lead Agencies concluded that the alternative did not fare as well as other alternatives on metrics such as system-wide delay, corridor travel time and speed, level of service, travel time index, vehicle throughput, and effect on local roadway networks.¹⁷ However, declining to study the MD 200 Diversion Alternative simply because the Lead Agencies projected it to have fewer traffic benefits and net lower revenues to the private concessionaire undertaking the Project than other alternatives is not reasonable in light of the

¹⁴ 40 C.F.R. § 1508.1(z).

¹⁵ Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 (Mar. 16, 1981) (hereinafter “40 NEPA Questions”), at Question 1b (emphasis added).

¹⁶ DEIS at p. 2-21.

¹⁷ DEIS at p. 2-21 to 2-22. The DEIS also states that “the top side of I-495 would perform worse than the No Build Alternative in the morning peak period” under the MD 200 Diversion Alternative, but does not explain why. DEIS at p. 2-22.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 9

environmental impacts of the Build Alternatives being considered.¹⁸ Furthermore, the MD 200 Diversion Alternative represents a crucial point on the “full spectrum of alternatives” that the Lead Agencies must evaluate. The alternative incorporates the best elements of the No-Build Alternative—which has no environmental impacts but no traffic benefits—and elements of any of the Build Alternatives—which have traffic benefits but substantial environmental impacts.

It also is noteworthy that in discussing the MD 200 Diversion Alternative in the DEIS the Lead Agencies paired it with managed lanes on I-95. It is not clear why the Lead Agencies did not consider the MD 200 Diversion alternative on its own, since adding the I-95 managed lanes to the alternative was not justified based on origin/destination data and would cause additional environmental impacts that gave grounds for MDOT SHA to reject the proposed alternative. When the Lead Agencies considered the MD 200 Diversion Alternative in 2019, they studied the alternative on its own and acknowledged it met Purpose and Need. Therefore, it should have carried the alternative forward on its own and studied it in detail in the DEIS.

The Lead Agencies’ conclusory rejection of the MD 200 Diversion Alternative is problematic for three reasons. First, implicit in MDOT SHA’s traffic metrics ratings relative to the Build Alternatives is the fact that the MD 200 Diversion Alternative would result in improvements in those metrics over a no-build scenario. Furthermore, when questioned during a Commission meeting on November 20, 2019, MDOT SHA’s P3 director acknowledged that an alternative such as the MD 200 Diversion Alternative that would address Purpose and Need better than the no-build alternative, though perhaps not as much as other alternatives, would still meet Purpose and Need.¹⁹

Second, the Lead Agencies also noted, as a basis for rejecting the MD 200 Diversion Alternative, that it would require a public subsidy of approximately \$310 million. The Build Alternatives also could require subsidies under a number of construction cost and interest rate scenarios, making rejection of the MD 200 Diversion Alternative on this basis unreasonable.²⁰ Several courts have found that a lead agency must consider an alternative that is reasonable even if it is not feasible

¹⁸ The traffic/travel analysis was also flawed because the DEIS did not approach the ICC as “the managed lanes” for the top side of 495. There was no discussion of the reduced impact to I-495 as a result of affirmatively encouraging use of the ICC. For other alternatives, the review was both on the managed lanes and the general purpose lanes.

¹⁹ See Transcript of Nov. 20, 2019 Commission meeting, at pp. 21-22.

²⁰ DEIS at p. 2-22, 2-48 to 2-49.

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 10

under current conditions.²¹ In one particularly relevant case, the Ninth Circuit ruled that an agency’s failure to consider reasonable alternatives solely because of a lack of available funds constituted a violation of Council on Environmental Quality (“CEQ”) regulations.²² The Forest Service considered only one alternative to prevent forest fires since funding for other alternatives was not readily available. The court ruled that the Forest Service should have considered other alternatives since funding could become available through a special congressional appropriation, re-prioritizing other funding, or altering a fuel treatment program.²³

C. Right-of-Way acquisition in furtherance of any of the Build Alternatives runs afoul of the Capper-Cramton Act.

The CCA, enacted in 1930, authorized federal funding for M-NCPPC to acquire land in Maryland for the development of a comprehensive park, parkway, and playground system in the National Capital area. Congress has charged M-NCPPC with representing the State in protecting and stewarding CCA-acquired property in Maryland, in accordance with plans approved by the NCPC.²⁴

²¹ *Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries Serv.*, 184 F. Supp. 3d 861, 943 (D. Or. 2016) (Fisheries Service must consider breaching, bypassing, or removing dams to protect endangered species as part of NEPA analysis, even though these alternatives may have required congressional action to approve funding and would not be reasonably certain to occur). *But see Colo. Envtl. Coal. v. Salazar*, 875 F. Supp. 2d 1233, 1247 n.9 (D. Colo. 2012) (an action that requires “outright reversal of a prior Congressional directive” did not require consideration under NEPA).

²² *Ctr. for Biological Diversity v. Rey*, 526 F.3d 1228, 1233 (9th Cir. 2008); *rev’d on other grounds*, 577 F.3d 1015, 1018 (9th Cir. 2009).

²³ *Id.*

²⁴ The Maryland Court of Appeals recently described M-NCPPC’s role with respect to the CCA as follows:

MNCPPC is responsible for protecting lands under the Capper-Cramton Act, which was enacted by Congress in 1930 to “protect land on both sides of the Potomac River as an integrated park and parkway system known as the George Washington Memorial Parkway.” Land Use § 15-302(3) provides MNCPPC with the authority to act as the representative of this State in fulfilling the mandate of the Capper-Cramton Act in Maryland. The Act enables MNCPPC to enter into agreements with the National Capital Park and Planning Commission (“NCPPC”) for extending and developing protected lands in Maryland. Therefore, the Capper-Cramton Act provided for cooperation between NCPPC and MNCPPC, enabling MNCPPC to act as administrator over preserved lands.

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 11

Property acquired under the CCA and managed by M-NCPPC’s constituent departments is governed by the “Basic Agreement” entered into in 1931 between M-NCPPC and NCPC. Section 5 of the Basic Agreement states as follows:

It is further understood and agreed, in accordance with the [CCA and Maryland enabling legislation] that the title to all lands acquired under the provisions of this Basic Agreement or any Supplementary Agreement shall vest in the State of Maryland, and that *no part of any land purchased for park or recreational purposes* with the funds provided by the [NCPC], in whole or in part, *shall at any time be conveyed, sold, leased, exchanged, or in any manner used or developed for other than park purposes* by the [M-NCPPC], and the development and administration of said lands shall be under the [M-NCPPC] but the development thereof shall be in accordance with plans approved by the [NCPC], or the necessary approval of the Congress of the United States.

(emphasis added).

In February 1951, NCPC and M-NCPPC entered into the first Amendatory Agreement to the Basic Agreement, which, among other things, increased funding for parkland acquisition, amended the General Park Plans, and limited M-NCPPC’s ability to issue bonds. The Amendatory Agreement also restated and clarified the Basic Agreement’s restriction on the disposition and use of parkland acquired pursuant to the CCA. The Amendatory Agreement stated that where M-NCPPC uses NCPC funds to acquire parcels included in the General Park Plans and threatened by encroaching subdivision development that would greatly increase the expenses incurred in acquiring such parcels, such parcels “must ... be acquired under the Capper-Crampton program ... so as to eliminate any possibility that any such unit may in the future be rendered incomplete by the sale, disposition or use of any such parcels by the [M-NCPPC] for other than park purposes ... to the end that all such parcels shall be subjected to the limitations and restrictions contained in said Capper-Cramton Act and in said Basic Agreement.” Thus, both Maryland and federal law—as implemented by the aforementioned agreements—explicitly limit disposition of M-NCPPC-administered parkland for purposes inconsistent with their use as parkland.

Town of Forest Heights v. Maryland-Nat’l Capital Park & Planning Comm’n, 463 Md. 469, 518–19, 205 A.3d 1067, 1096 (2019) (internal citations omitted).

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 12

Furthermore, it is a longstanding principal that a government agency cannot “override the expressed will of Congress, or convey away public lands in disregard or defiance thereof.”²⁵ Indeed, using lands for purposes other than those provided by law is actionable.²⁶ Relevant to the matter at hand, the Maryland Court of Appeals ruled that a subdivision plat in which land was dedicated to public use as part of a large regional park by M-NCPPC could not be abandoned where the developer seeking abandonment could not show that abandonment would not damage the public interest.²⁷

Section 17-205 of the Maryland Land Use Article vests solely in M-NCPPC the authority to “transfer any land that it holds under this title and determines is not needed for park purposes or other purposes authorized under this title.” The Land Use Article authorizes M-NCPPC to transfer park property—acquired under the CCA or otherwise—only after M-NCPPC makes a determination that the property is no longer “needed for park purposes.” Similarly, section 17-206(b)(1) of the Land Use Code authorizes M-NCPPC to exchange playground or recreational land held or acquired by M-NCPPC for other public land that it determines is more suitable for playground and recreational purposes, “[e]xcept for parkland acquired under an agreement with the [NCPC].”

²⁵ *Am. Sch. of Magnetic Healing v. McAnnulty*, 187 U.S. 94, 108 (1902) (citing *Burfenning v. Chi., S. P., M. & O. R. Co.*, 163 U.S. 321 (1896)).

²⁶ *See, e.g., Sportsmen’s Wildlife Def. Fund v. Romer*, 73 F. Supp. 2d 1262, 1274 (D. Colo. 1999) (placing rock quarry, signs, and motion detectors on public lands constituted misuse under 50 C.F.R. § 80.14(b)(2) and the Pittman-Robertson Act, since the land was purchased with federal funds for wildlife purchases).

²⁷ *Md.-Nat’l Capital Park & Planning Comm’n v. McCaw*, 246 Md. 662, 686-87 (1967).

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 13

Section 6.4.4 of the DEIS includes a table identifying the ten CCA park properties that the Build Alternatives will impact:

Table 6-6: Summary of Minimization of Impacts to Parks Acquired with Capper-Cramton Funding Implemented Between June 2019 and May 2020

Park Property Acquired with Capper-Cramton Funding	June 2019 Impacts in acres	May 2020 Impacts in acres	Change in Impacts in acres
George Washington Memorial Parkway	17.6	12.5	- 5.1
Chesapeake and Ohio Canal National Historical Park	15.1	15.4	+ 0.3
Clara Barton Parkway	1.8	1.8	No Change
Cabin John Stream Valley Park, Unit 2	0.1	< 0.1	Negligible
Rock Creek Stream Valley Park, Unit 3	4.9	3.3	- 1.6
	4.6 (Alt 9M)	2.5 (Alt 9M)	- 2.1 (Alt 9M)
Rock Creek Stream Valley Park, Unit 2	9.6	0.4	- 9.2
	9.5 (Alt 9M)	0.2 (Alt 9M)	- 9.3 (Alt 9M)
Locust Hill Neighborhood Park (previously part of Rock Creek Park)	0.3	0.3	No Change
	0.3 (Alt 9M)	0.2 (Alt 9M)	- 0.1
Sligo Creek Parkway	5.0	4.1	- 0.9
	4.1 (Alt 9M)	3.3 (Alt 9M)	- 0.8 (Alt 9M)
Northwest Branch Stream Valley Park, Unit 3	3.2	3.0	- 0.2
Cabin John Regional Park	5.4 (Alt 8, 9, 9M)	5.7 (Alts 8,9, 9M)	+ 0.3 (Alts 8, 9, 9M)
	6.9 (Alt 10)	7.2 (Alt 10)	+ 0.3 (Alt 10)
	5.2 (Alt 13B)	4.5 (Alt 13B)	- 0.7 (Alt 13B)
	6.7 (Alt 13C)	5.2 (Alt 13C)	- 1.5 (Alt 13C)

MDOT SHA has failed to recognize that M-NCPPC (and NCPC) must approve the use of these CCA properties for the Project, and only after finding the land is no longer needed as parkland. Similarly, only M-NCPPC can ask the Department of Interior to change a use or deed restriction, for example, to Cherry Hill Park, separate and apart from NEPA’s environmental review requirements. As discussed in more detail below, the MD 200 Diversion Alternative would avoid parkland, unlike the Build Alternatives that the Lead Agencies evaluated in the DEIS. M-NCPPC cannot meet its statutory obligations to protect parkland generally and CCA-covered land specifically without ensuring there are no other reasonable alternatives that avoid parkland. Simply rejecting the MD 200 Diversion Alternative out of hand because of traffic projections 40 years into the future is not reasonable in light of the impacts of the alternatives retained for design. Assuming there is no means of avoiding the taking of parkland to undertake the Project, then, at a minimum, the Lead Agencies should provide clarity regarding parkland impacts and possible avoidance and propose mitigation before asking M-NCPPC to approve a change in use of parkland under M-NCPPC’s control.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 14

D. The Project's Limits of Disturbance are underestimated.

Section 2.7.4 of the DEIS describes the Limits of Disturbance ("LOD") for the Build Alternatives, and Appendix B describes efforts by the Lead Agencies to minimize the LOD for each of the Build Alternatives. The LOD specified in the DEIS is narrower than what MDOT SHA and FHWA depicted in earlier maps. For example, MDOT SHA and FHWA previously stated that the Project would require the relocation of parts of Rock Creek and depicted a substantially larger LOD at Rock Creek Park between Rockville Pike and Stoneybrook Drive. Avoidance and minimization measures have been applied along parkland resources to include the use of retaining walls, alignment shifts, elimination of stormwater management facilities along the edge of roadway, and adjustments to typical roadside ditch design. While avoidance and minimization efforts have reduced direct impacts to parkland, the stormwater burden in these areas has increased and severe shortfalls in the onsite regulatory stormwater management requirements are anticipated.

Because MDOT SHA does not plan to finalize the Project's design until after it completes the NEPA review and awards a contract to a firm to undertake the project, there is significant risk that the LOD will need to be much larger than what is reflected in the DEIS. For example, stream impacts identified on the Impact Plates in the Lead Agencies' Joint Permit Application severely underestimate the true impacts that will result from the relocation of drainage channels, stabilization of existing outfalls that would receive additional storm drainage, and grading that eliminates all existing buffer plantings and bank stabilizing features where it extends right to the edge of waterways surrounding the Project. The Commission appreciates MDOT SHA's past and future commitment to reduce to the maximum extent possible the LOD and construction impacts to the most critical resources within the project area. However, the LOD must be expanded in many areas to allow for work to restore, stabilize, transition, and protect natural resources, as well as for construction access, staging, grading, and materials storage. An important aspect of avoidance and minimization is minimizing the roadway footprint while still keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas to ensure that they will appropriately handle the increased drainage pressures that will result from advancing one of the Build Alternatives. Ongoing design of the Project must ensure stable tie-ins for outfalls, protection and restoration of stream banks, and improvements to resources based on Project impacts. M-NCPPC has preliminarily identified numerous locations where the LOD does not appear adequate for construction of these outfalls, necessary perennial stream stabilization, modern drainage techniques, and roadway infrastructure.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 15

Other changes to the LOD may also be necessary. For example, the Project's engineering and design phases may necessitate changes in access points or to enhance safety, which can increase the LOD. Additionally, the LOD also may not accurately reflect impacts to cultural and historic resources, because the inventory of those resources is incomplete.

E. MDOT SHA has failed to consider the Project's impacts from phasing.

The Lead Agencies state in the DEIS that the Project will be built in phases if they select a Build Alternative.²⁸ Yet the Lead Agencies do not consider the impacts of phased construction. "The potentially significant impacts from phasing . . . must be adequately studied" during the NEPA process, particularly for projects such as this one that may span many years from start to finish.²⁹ In addition, when the planning of future phases progresses beyond the "speculative" or "mere proposal" stage, lead agencies should consider impacts from phasing.³⁰

Here, MDOT SHA's approach to phasing the Project does not adequately account for local transportation issues, changing travel demands, changes expected to occur over time within a particular census of natural resources, and the explicable constraints on I-495 and I-270 in Montgomery County. It also fails to account for Prince George's County's land use and transportation plans, such as the development of the University of Maryland Capital Region Medical Center off of I-495. As MDOT SHA's planning process moves towards completion, so must the Lead Agencies' consideration of the phased Project's impacts from diverting traffic to the Inter-County Connector, which should include the completion of the I-270 Managed Lanes expansion and south on I-495 through the bottleneck over the American Legion Bridge before the project expands to address the constrained areas along the top side of I-495.

F. The DEIS fails to satisfy the burden imposed on projects that impact parkland and other protected areas, including those protected by the CCA.

Section 4(f) of the Department of Transportation Act and the law's implementing regulations require avoidance, minimization, and mitigation (in that order) of highway project impacts to parkland.³¹ As FHWA acknowledges, it may not approve a transportation project that uses any Section 4(f) property, unless FHWA determines that: (1) there is no feasible and prudent

²⁸ DEIS at p. 2-47 to 2-48.

²⁹ *Davis v. Mineta*, 302 F.3d at 1123-24, *abrogated on other grounds by Dine Citizens Against Ruining Our Env't v. Jewell*, 839 F.3d 1276 (10th Cir. 2016).

³⁰ *See, e.g., O'Reilly v. U.S. Army Corps of Eng'rs*, 477 F.3d 225, 237 (5th Cir. 2007).

³¹ 23 U.S.C. § 138; 49 U.S.C. § 303; 23 C.F.R. Part 774.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 16

avoidance alternative to the use of the property and the action includes all possible planning to minimize harm to the property resulting from such use; or (2) the use of the property, including any measures to minimize harm committed by the applicant, will have a de minimis impact on the use of the property.³² If the avoidance analysis determines that there is no feasible and prudent avoidance alternative, then FHWA may approve the alternative that causes the least overall environmental harm.³³ The appropriate time to identify avoidance and mitigation measures is before eliminating reasonable alternatives that have fewer environmental impacts than the retained alternatives. NEPA requires—and courts have recognized—that agencies must take a “hard look” at impacts to sensitive resources throughout the environmental review process, even prior to rejecting alternatives.³⁴

The Lead Agencies noted in their Draft Section 4(f) Evaluation included in the DEIS that the MD 200 Diversion Alternative would avoid all impacts to thirteen Section 4(f) properties, including four CCA properties.³⁵ However, the Lead Agencies rejected the MD 200 Diversion Alternative as not meeting Purpose and Need, thereby retaining for detailed study only Build Alternatives that impact Section 4(f) properties. As discussed above, the Lead Agencies should not have rejected the MD 200 Diversion Alternative since the Lead Agencies previously had found that the alternative met Purpose and Need. In light of the potential traffic relief benefits from the MD 200 Diversion Alternative and the fact that it would not impact Section 4(f) properties, the Lead Agencies should have advanced the alternative for additional review and analysis along with the Alternatives Retained for Detailed Study and weighed its pros and cons when compared to the other Build Alternatives.

³² DEIS Appendix F, at p. 3 (citing 23 C.F.R. § 774.3(a), (b)).

³³ 23 C.F.R. § 774.3(c).

³⁴ See *Davis v. Mineta*, 302 F.3d at 1120 (NEPA review failed to take a “hard look” by rejecting avoidance alternatives and failing to consider transportation systems management, mass transit, and various build alternatives by simply concluding that they were unfeasible); see also *Ass’n Working for Aurora’s Residential Env’t v. Colo. Dep’t of Transp.*, 153 F.3d 1131 (10th Cir. 1998) (“§4(f) requires the problems encountered by proposed alternatives to be truly unusual or to reach extraordinary magnitudes if parkland is taken.” (internal quotation marks and citation omitted)); *Ass’n Concerned About Tomorrow, Inc. (ACT) v. Dole*, 610 F. Supp. 1101, 1113 (N.D. Tex. 1985) (requiring supplementation of a NEPA analysis when a road would have traversed public parkland containing relatively unique vegetation); *Klein v. U.S. Dep’t of Energy*, 753 F.3d 576, 584 (6th Cir. 2014) (NEPA review must consider the unique characteristics of a region); *Ohio Valley Envtl. Coal. v. U.S. Army Corps of Eng’rs*, 479 F. Supp. 2d 607, 634 n.33 (S.D. W. Va. 2007) (same), *rev’d and remanded on different grounds sub nom. Ohio Valley Envtl. Coal. v. Aracoma Coal Co.*, 556 F.3d 177 (4th Cir. 2009).

³⁵ DEIS Appendix F, at p. 256.



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 17

G. The DEIS is inconsistent with Section 106 of the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act (“NHPA”) requires lead agencies to take into account the effects of undertakings on Historic Properties and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.³⁶ Historic Properties include prehistoric or historic districts, sites, buildings, structures, objects, sacred sites, and traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places (“NRHP”).³⁷

First, the Lead Agencies must consult with the State Historic Preservation Officer (“SHPO”) and the Advisory Council on Historic Preservation (“ACHP”). Then, the Lead Agencies must identify properties that may be affected by the Project and determine their listing or eligibility for listing on the NRHP. The Lead Agencies must also define the Area of Potential Effect (“APE”)/Permit Area for the Project, describe the horizontal and vertical (depth of ground disturbance) area of direct and indirect effects, and include a discussion on viewshed for the built environment.³⁸ In consultation with the SHPO and ACHP, the Lead Agencies must assess the effects of any permits on Historic Properties to establish if they are adverse. The Lead Agencies must resolve adverse effects by developing and evaluating alternatives that could avoid, minimize, or mitigate these impacts on historic resources.

The Lead Agencies have not finished identifying archaeological sites and historic cemeteries as required under Section 106 and is delaying that action for some properties. Additionally, MDOT SHA’s decision to consider M-NCPPC park units discretely rather than as a unit fails to take into account the historic significance of the park system. MDOT SHA’s failure to identify the historic properties that the Project may impact runs counter to CEQ and Advisory Council on Historic Preservation guidance and negatively impacts the ability of the Lead Agencies to gain a full understanding of the Project’s impacts and the mitigation that will be needed.

³⁶ 54 U.S.C. § 306108.

³⁷ See *id.* § 300308.

³⁸ A historic or cultural resource’s viewshed is the surrounding area that can be seen visually from the resource. See, e.g., Section 4(f) Policy Paper, U.S. Dept. of Transportation, Fed. Highway Admin. Office of Planning, Environment and Realty 35 (July 20, 2012), available at <https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.pdf> (offering “example of an adverse effect where there is no Section 4(f) use might be construction of a new highway within the immediate view shed of a historic farmstead that results in an adverse effect finding under Section 106 for the diminishment of the setting” because it is a “visual intrusion”).



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 18

The Build Alternatives would negatively impact parkland administered by M-NCPPC that has historic value, including Rock Creek Stream Valley Park, Sligo Creek Stream Valley Park and Sligo Creek Parkway, Cabin John Stream Valley Park, and Northwest Branch Stream Valley Park. Rock Creek Park and Sligo Creek Parkway are designated as historic resources in the National Register of Historic Places, and the other aforementioned parks have historic value as well—they were part of the park master plan developed around 1930 by M-NCPPC landscape architect Roland Rogers and represent an interconnected cultural landscape. These parks are part of the same cultural landscape system that M-NCPPC created to preserve the watersheds of the Anacostia and the Potomac Rivers and will be negatively impacted if any of the Build Alternatives are selected. It also bears repeating that, beyond the fact that these parks are historic resources, they were acquired with federal funds made available under the CCA and the 1931 Agreement, which prohibits the conveyance, sale, lease, exchange, or use or development of such lands for other than park purposes.

H. The DEIS fails to consider the non-auto driver mode share metric.

Non-Auto Driver Mode Share (“NADMS”) (meaning percentage of commuters who travel to their worksite by means other than a single-occupant vehicle) is a performance metric incorporated into many Montgomery County planning documents. The metric correlates with air-quality impacts, and is thus an important proxy for comparing alternatives with respect to impacts. The DEIS does not directly address how the project will impact this metric or how its negative impacts to Montgomery County’s planning goals will be mitigated. The metric’s exclusion is also a direct consequence of the narrowly drawn Purpose and Need Statement that precluded serious consideration of transit.

The DEIS should explicitly consider this metric because more single-occupant vehicles on the roads will result in more air emissions. Furthermore, transit-related mitigation funded through toll revenue should be made available and applied to help develop non-auto programs that will offset any adverse impacts to NADMS goals. M-NCPPC, as the regional planning agency for both Montgomery and Prince George’s Counties, must look to local land use planning documents and best practices in transportation and land use planning to drive the discussion.

III. Other Comments

A. Social Equity/Environmental Justice

Title VI of the Civil Rights Act requires federal agencies to ensure that there is no discrimination on the basis of race, sex, national origin, etc. with respect to any program or activity receiving



Jeanette Mar
Lisa Choplin
November 9, 2020
Page 19

federal financial assistance.³⁹ Executive Order 12898 requires federal agencies to identify and address disproportionate adverse health or environmental effects of their programs on minority and low-income populations.⁴⁰ Section 4.21 of the DEIS discusses these issues.

The Lead Agencies do not sufficiently address impacts to low-income and minority populations as required under NEPA and other authorities.⁴¹ First, the Lead Agencies state that they will consider Title VI impacts to communities when they select a Preferred Alternative in the FEIS.⁴² However, this approach acknowledges what is already evident—that the Lead Agencies are eliminating alternatives that have fewer impacts on minority and low-income populations, and ultimately will be left with an alternative that can generate the most toll revenues without regard to environmental justice impacts.

While the Lead Agencies acknowledge that the Build Alternatives they are considering will require the taking of minority and low-income residences and businesses, they suggest that this effect is counterweighed by the fact that everyone will benefit if highway congestion is alleviated. The Lead Agencies state that “while travel speed and trip reliability benefits offered by the tolled lanes could be a less feasible choice for [environmental justice] populations due to cost burdens, under any of the managed lanes alternatives, all existing GP lanes would remain toll-free and would undergo some travel time improvements.”⁴³ By failing to consider design or operational strategies that would eliminate or reduce the number of homes, businesses and community amenities affected by the Project and/or allow equitable access to the managed lanes, the Lead Agencies have created another layer of inequity. Suggesting that minority and low income persons will benefit from using general purpose lanes, which will inevitably have more congestion than the managed lanes, is a direct acknowledgement of inequality. Rather, MDOT SHA could consider options like adding or modifying access locations that would serve environmental justice communities based on specific origin/destination analyses and/or developing a toll subsidy program. More detailed information is needed as part of the

³⁹ 42 U.S.C. § 2000d.

⁴⁰ Executive Order 12898 (Feb. 11, 1994).

⁴¹ See 40 C.F.R. § 1508.1(g) (defining “effects or impacts” to include social effects); Executive Order 12898 (Feb. 11, 1994); USDOT Order 5610.2(a) (May 2, 2012); FHWA Order 6640.23A (June 14, 2012); FHWA Memorandum Guidance on Environmental Justice and NEPA (2011).

⁴² DEIS Appendix E, at p. 70.

⁴³ DEIS Appendix E, at p. 108.

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 20

Environmental Justice evaluation to help determine the appropriate mitigation to address the inequities to these environmental justice communities.

B. Alternative Modes of Travel

As discussed above, the DEIS does not adequately address alternative modes of travel. First, the DEIS did not discuss or analyze whether or how to bring transit across the Woodrow Wilson Bridge, which was designed and built to accommodate light rail at significant cost to the State of Maryland. Second, there is no indication or commitment by the Lead Agencies to design the improvements to the American Legion Bridge to structurally accommodate light rail, whether now or in the future (as was done with the Woodrow Wilson Bridge), which is particularly alarming given the 50-year term proposed for the Project's private partner. Third, the Build Alternatives should include consistent bike and pedestrian crossing in their designs for better connectivity to transit and to break down the barriers to the local communities created by I-495 and I-270. While the Lead Agencies have made representations that it will include some crossings in the Project, the firm selected to design, build and operate the Project likely will have discretion as to if and how it includes the crossings in the final design.

C. Stormwater impacts

The DEIS states that the Lead Agencies will provide stormwater treatment for 12.5 percent of existing roadways, based on MDOT SHA requirements (50 percent)⁴⁴ and the amount of roadway that will be reconstructed (25 percent). This level of treatment is inadequate. Runoff from decades of highway use has caused significant degradation to downstream waterways and local infrastructure. Repairing the storm drains is not mitigation, it is deferred maintenance. The Lead Agencies classified some streams in the Commission's parks as less than "high" quality primarily because of degradation caused by lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls. MDOT SHA cannot use the degradation it caused to suggest that less mitigation is needed. Furthermore, the stream features listed as medium quality should be treated in the same way as the high quality resources are treated in relation to the on-site mitigation approach (0:1 on-site mitigation credit). The highly urbanized nature of the Project area must be accounted for and the ecosystem functions that these resources (which have extremely high functional value considering the surrounding land use and extensive impervious drainage areas) must be

⁴⁴ Maryland Stormwater Management Guidelines for State and Federal Projects (Apr. 15, 2010), <https://mde.state.md.us/programs/Water/StormwaterManagementProgram/Documents/www.mde.state.md.us/assets/document/State%20and%20Federal%20SWM%20Guidelines%20final.pdf>

Akin Gump
STRAUSS HAUER & FELD LLP

Jeanette Mar
Lisa Choplin
November 9, 2020
Page 21

appropriately mitigated. Two specific examples listed as "medium" quality are the Cabin John Creek mainstem and Sligo Creek mainstem, which are critically important to sustaining ecological function within their respective urbanized landscapes. Channels with a medium and high functional value are anticipated to be degraded as a result of construction and will have significantly lower function and value following construction and would therefore require full off-site mitigation where impacts cannot be avoided.

The Commission appreciates MDOT SHA's and FHWA's consideration of the above comments and looks forward to continuing to work collaboratively to ensure that the Project's impacts to Commission parkland, stream, and wetland resources are avoided, minimized, and mitigated to the largest extent possible. The Commission also incorporates by reference into this Comment letter the additional, technical comments attached hereto as Appendix A.

Sincerely,

Susan H. Lent

Anthony T. Pierce
Susan H. Lent
John B. Lyman

Encl: Appendix A

cc: Jack Dinne, U.S. Army Corps of Engineers
Steve Hurt, MDE
Casey Anderson, M-NCPPC
Betty Hewlett, M-NCPPC
Adrian Gardner, M-NCPPC

Appendix A

Comment No.	M-NCPPC Department	Reference	Technical Comment
1.	Montgomery Parks	DEIS-General	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations, and for this commitment to be reflected in the FEIS.
2.	Montgomery Parks	DEIS-General	The finalization of an LOD without consideration of Park-owned property more closely in terms of both stable outfall design and on-site stormwater opportunities is not acceptable. In our detailed review, Parks has identified several locations in which the current LOD does not reflect existing conditions in terms of stable stream and outfall transitions and onsite stormwater opportunities. In the FEIS and ROD, MDOT SHA needs to clearly define the process for LOD modifications moving forward. Specifically, how the P3 will be permitted to expand the LOD as needed during detailed and final design to accommodate these features.
3.	Prince George's Planning	DEIS-General	There was no mention of the Prince George's County Green Infrastructure functional master plan designations. Was it considered? Possible mitigation? Here is a link to the Prince George's County, Countywide Green Approved Infrastructure Plan for inclusion in the FEIS: http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan .
4.	Prince George's Planning	DEIS-General	The new Zoning Ordinance in Prince George's County is scheduled to be implemented via a countywide map amendment process that will begin in November 2020 and conclude by June 2021. Information may be found here: http://zoningpgc.pgplanning.com/ .
5.	Prince George's Planning	DEIS-General	While the reduced MSAT and GHG emissions are expected to decrease based on the improved fuels and vehicle technologies, how does the increased use of the highway play into this factor? Higher numbers of cars, even if they are more efficient would potentially have a negative impact that could negate the better technology.
6.	Prince George's Planning	DEIS-General	Table 2.7-2 in the NETR does not identify the impacts of the Forest Conservation Act in Prince George's County. Is it because our layer is incomplete?
7.	Prince George's Planning	DEIS-General	While SHA verified no impacts to the solar array near Manchester Park but what about impacts to the existing private mitigation bank in the area?

Comment No.	M-NCPPC Department	Reference	Technical Comment
8.	Prince George's Planning	DEIS-General	Specifically in Appendix E, page 23 there is no mention of Plan2035 – the comprehensive plan for guiding future development within Prince George's County. Some references to this document in the DEIS is necessary.
9.	Prince George's Planning	DEIS-General	While we don't want to encourage segmentation, it is hard for the average citizen to read and understand the document as it is currently written. Is there a way to relay the information in a manner that clearly identifies information for both counties? The DEIS and Technical reports are voluminous and hard for the average citizen to understand how the project impacts their local area.
10.	Prince George's Planning	DEIS-General	MNCPPC, Department of Parks and Recreation will require forest restoration to the extent practical. Please note that the Maryland Reforestation Law is inadequate for urban areas and does not take into account the lack of forest areas for mitigation in heavily urbanized areas. MNCPPC does not consent to tree mitigation outside of the immediate project impact area. MNCPPC requests an accommodation within the spirit of this law to add the Street Trees Program as reforestation mitigation and as mitigation for impacts to EJ areas.
11.	Prince George's Planning	DEIS-General	While not segmentation, identification of the impacts to the Prince George's County Department of Parks and Recreation. Perhaps a line to identify MoCo (495 and I-270) and Prince George's parks (Table 2-1p 23 of App F – draft 4(f).
12.	Prince George's Planning	DEIS-General	Cherry Hill Park is deed restricted for recreational use only. Any other use requires approval by the Secretary of the Interior. If M-NCPPC were in favor of converting a portion (south of the northernmost 100') of Cherry Hill Road Park to stormwater management in support of the managed lanes project / I-495 widening, we would need to apply to the Department of Interior's National Park Service to amend our 1976-1978 applications, and Department of the Interior would have to agree in writing. We disagree that Department of the Interior's review of the managed lanes project under Section 4(f) would constitute Department of the Interior's approval of use of a portion of Cherry Hill Road Park for stormwater management, as we would not have submitted the required amendments to our 1976-1978 applications and because the 4(f) review is likely done under a different part of Department of the Interior than National Park Service.
13.	Prince George's Planning	DEIS-General	Carsondale (PG:73-36) Agree with NRHP eligibility under Criterion A and that the community will be adversely affected by construction. Although there will be no impacts to contributing dwellings, the LOD includes portions of rear yards, some secondary structures. Agree with the report's conclusions that there will be multiple impacts to contributing resources that will result in a cumulative diminishment of the community's integrity of setting and design. Historic Preservation staff concurs that Carsondale is eligible for listing in the NRHP and that adverse impacts will occur.

Comment No.	M-NCPPC Department	Reference	Technical Comment
14.	Prince George's Planning	DEIS-General	Area AN-6 – Paint Branch Fish Passage – South Farm BARC. The area has high potential to contain archeological resources based on prior sites recorded close to the proposed LOD. Historic Preservation staff concurs that this area has a high probability of containing archeological resources and recommends a Phase I survey.
15.	Prince George's Planning	DEIS-General	Area AN-7 – Paint Branch – South Farm. This area has a high potential to contain archeological resources. Historic Preservation staff concurs that archeological site 18PR113 should be evaluated by conducting Phase II investigations and that areas not previously surveyed should be investigated.
16.	Prince George's Planning	DEIS-General	Area PA-1 – Back Branch – Agree that high potential area along the Chesapeake Beach Railway, 18PR605, should be further investigated.
17.	Prince George's Planning	DEIS-General	Historic Preservation staff have major concerns about the impacts of I-495/I-270 expansion project on the Greenbelt National Historic Landmark (PG:67-04-00). There will be major impacts from the construction proposed at the Greenbelt Road (MD 193) interchange, the Southway interchange, and to the Walker Family Cemetery at the north end of the Golden Triangle subdivision. Other significant properties that will be impacted include the Greenbelt National Guard Armory (PG:67-36), Greenbelt Park (PG:67-69), the Baltimore-Washington Parkway (PG:69-20) and the Beltsville Agricultural Research Center (PG:62-14). This includes visual impacts, increased pollution, and noise. An estimated 69.3 acres of Greenbelt Park will be affected by construction.
18.	Prince George's Planning	DEIS-General	Historic Preservation staff has major concerns about impacts to the Glenarden National Register Historic District (PG:72-26 & PG:73-26). The proposed widening will have significant impacts on existing structures and the gap between the two sections of the district will be further widened.
19.	Prince George's Planning	DEIS-General	The updated maps indicate that the LOD for Option 10 will go through the center of a slave cemetery near the New Carrollton Metro Station that has not yet been documented. This site needs to be further investigated to determine the extent of the burials and to be formally documented. All efforts should be taken to avoid impacts to this site and any burials.
20.	Prince George's Planning	DEIS-General	Document details and analysis need to be shown by County and/or by Phase/Segment. Information is too dense for the average reader to determine impacts by local area.

Comment No.	M-NCPPC Department	Reference	Technical Comment
21.	Prince George's Planning	DEIS-General	DEIS lacks Stormwater Management analysis. Assumptions based on replacement of in-kind facilities built prior to urbanization is unrealistic and inadequate.
22.	Prince George's Planning	DEIS-General	Please provide updated traffic analysis that models a telework option for former commuters.
23.	Prince George's Planning	DEIS-General	MNCPPC requests that MDOT include all permit requirements and mitigation projects and costs in the bid documents for the P-3 Construction Project Developer. Request procedure for change orders during construction to avoid costly project issues like the Purple Line is experiencing.
24.	Prince George's Planning	DEIS-General	Mitigation triggers need to be implemented. For example, By the 15 mile xx linear feet of stream restoration needs be completed and 10% of the forest mitigation will be completed. The mitigation strategy should reflect thoughtfully phased development instead of disturbing all 25 miles of Beltway in our County at once.
25.	Prince George's Planning	DEIS-General	Limits of Disturbance Adjustments – MNCPPC needs to be positioned to be able to request and review changes to the LOD as the project progresses to ensure minimization of impacts to resources and the use of best construction methods to be implemented.
26.	Prince George's Planning	DEIS-General	Lack of data on impacts to arterial roads and local roads.
27.	Prince George's Planning	DEIS-General	Prince George's County Non-Auto Driver Mode Share Goals (NADMS)

Comment No.	M-NCPPC Department	Reference	Technical Comment
28.	Prince George's Planning	DEIS-General	Will there be a COVID assumption incorporated into the modeling for both the impacts from teleworking and the impacts of reduced use of public transit?
29.	Prince George's Planning	DEIS-General	Incorporate Social Justice concerns into analysis and mitigation requirements.
30.	Prince George's Planning	DEIS-General	Utilize Street Trees Program as part of mitigation of impacts of Environmental Justice communities. Potential to increase tree canopy in Equity Emphasis Areas
31.	Prince George's Planning	DEIS-General	Environmental Justice should include a consideration of whether the projected transportation benefits address Environmental Justice concerns. I-495 and I-270 are regional interstate facilities serving as major freeways within Montgomery and Prince George's Counties. There is a need to conduct a detailed Environmental Justice evaluation on the transportation benefits of the Alternatives. While managed lanes can provide benefits for both the managed lanes and the general purpose lanes, there is no evaluation in the DEIS on who is benefitting and to what extent. There is a need to assess whether any of the Alternatives address equity/environmental justice concerns.
32.	Prince George's Planning	DEIS General	<p>Currently, within the Community Effects Analysis Area, the minority population percentage for Prince George's County was 86%.</p> <ul style="list-style-type: none"> • Tables within the Environmental Justice section of the EIS must be broken down by individual County impacts. • The Community Effects Analysis data must be broken down by County, Minority Population, Low-Income Population, and population areas of Limited English Proficiency in the Executive Summary. • Project document must demonstrate specifically how this project benefits the communities within Prince George's County that have minority or low-income populations. • Project document must demonstrate specifically how this project does not disproportionately affect the health or environment of minority or low-income populations. Currently, the analysis appears to indicate that only relocations were considered as impact factors. Was impact to local roads considered in the analysis? Was improved access to Environmental Justice populations for either interchanges or increased public transit options

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>analyzed?</p> <ul style="list-style-type: none"> Project document must include specific efforts/outcomes/comment resolutions to show the Environmental Justice communities were proactively provided meaningful opportunities for public participation in project development and decision-making. Environmental Justice mapping in the Community Effects and Environmental Justice Analysis is extremely difficult to read due to size and level of detail. Please provide more localized detail mapping in the document.
33.	Prince George's Planning	DEIS- General	Has an Environmental Justice specific analysis been performed on the public involvement efforts noted in the of the Community Effects Assessment and Environmental Justice Analysis to determine the percentages of minority, low-income, and limited English Proficiency populations participation in the public involvement efforts?
34.	Prince George's Planning	DEIS-General	The DEIS (FEIS and ROD) must contain a plan on how MDOT and the concessionaire will meet avoidance, minimization and mitigation requirements, including regulatory (404), parkland mitigation and parkland enhancements.
35.	Prince George's Planning	DEIS-General	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project.
36.	Prince George's Planning	DEIS-General	The ratio for mitigation should be increased the further away from the project the mitigation gets.
37.	Prince George's Planning	DEIS-General	Utilize Street Tree Program to increase Tree Canopy as Reforestation mitigation. Reforestation Law does not take into account heavily urbanized areas. MNCPPC prefers to add tree mitigation within the project impact area. Can we expand the mitigation to include County ROW? Tree Canopy as SWM has previously been approved for SWM credit over impervious area. County Resolution? Use Tree Canopy as a % of the mitigation in Urban Areas? Utilize MD Roadside Tree Law?

Comment No.	M-NCPPC Department	Reference	Technical Comment
38.	Prince George's Planning	DEIS-General	What is the status of the Site Search Report for Tree Planting opportunities?
39.	Prince George's Planning	DEIS-General	Mitigation should have a nexus to both the impact and use of the resources.
40.	Prince George's Planning	DEIS-General	Parkland impacted by the project must be replaced at an equal or greater natural, cultural and/or recreational value at a qualitative level, and therefore parkland replacement mitigation may exceed acreage impacted by the project.
41.	Prince George's Planning	DEIS-General	Mitigation for this project must be meaningful and create non-automobile connection. Preferred mitigation is to complete all of the trail crossings that connect the Beltway communities on both sides of the Beltway.
42.	Prince George's Planning	DEIS-General	For mitigation projects, a specific list of mitigation projects linked to impacts should be agreed upon in the Contract between P-3 and the Developer. We request 30% construction drawings prior to FEIS/ROD in order to review for impacts and mitigation. This may be provided in connection with a Mandatory Referral review at 30% design.
43.	Prince George's Planning	DEIS-General	Mitigation projects should be clearly shown. Please show proposed impact and associated mitigation projects by County. Consideration of continuous bicycle and pedestrian facilities along and across the project boundaries helps with connectivity.
44.	Prince George's Planning	JPA	The Joint Permit Application fails to follow MDE Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application.

Comment No.	M-NCPPC Department	Reference	Technical Comment
45.	Prince George's Planning	JPA	The JPA and impact plates do not detail if the impacts are Permanent or Temporary. Are all impacts to wetlands and waterways assumed to be Permanent?
	Prince George's Planning	JPA	The JPA and impact plates do not identify the property boundaries and adjacent property owners.
46.	Prince George's Planning	JPA	The JPA and impact plates do not show the distance of all proposed structures to all contiguous property lines and any appropriate County or State property line building restriction setbacks, rights-of-way and/or easements.
47.	Prince George's Planning	JPA	The JPA and impact plates do not show a plan view depicting existing and proposed conditions and structures. All plan view sketches should include, but are not limited to: north arrow; existing and proposed contours and/or grades; limit of surface water areas; ebb and flow direction of all water bodies (e.g., streams, tidal waters); applicant name and address; all horizontal dimensions of all proposed structures and impacts, existing conditions of the project site which includes all existing structures at or near the project site including neighbors; existing areas of wetland vegetation or mapped wetlands and buffers; the project boundary and a boundary demarcating the limits of disturbance. A section view showing existing and proposed conditions and structures.
48.	Prince George's Planning	JPA	The JPA and impact plates do not show description of construction access and methodology and a proposed construction schedule, with an estimated completion date.
49.	Prince George's Planning	JPA	The JPA and impact plates do not show a description of stabilization for temporary impacts.

Comment No.	M-NCPPC Department	Reference	Technical Comment
50.	Prince George's Planning	JPA	The design of the JPA and impact plates submitted for this project makes it extremely difficult to accurately review the quantity and type of impacts for each location. Please revise the impact plate section to include the relevant impacts on the adjacent/or previous page so one may view the list of impacts that are shown on the Plate with the actual Plate itself. Currently, one has to search for the plate, the impact quantities, the Wetlands and Waterways Features Table, the Impact ID Designation Key, and the Wetland Delineation Data Sheets in multiple separate locations.
51.	Prince George's Planning	JPA	The JPA fails to address or display stormwater management design including retrofitting or replacement of existing culverts and bridges, existing stormwater management flooding issues, Erosion and Sediment Controls, construction access, staging, grading, and materials storage. We understand that all of these items are assumed to be contained within the LOD, but these should all be shown on the impact plates.
52.	Prince George's Planning	DEIS-General	The LOD appears to be unrealistic in some locations.
53.	Prince George's Planning	DEIS-General	The Indirect and Cumulative Effects Report (pg. 59) states that a permit cannot be issued until a detailed compensatory mitigation package, including final mitigation design, is developed and approved by both USACE and MDE. For this project, the Contractor who will be constructing the project will be developing and providing final design for the mitigation component as the Final Mitigation Plan Development. The Contractor has not yet been selected, the mitigation has not been agreed upon yet, and there is not even a preliminary mitigation design. MNCPPC requests that USACE and MDE pause this Joint Permit Application review until a compensatory mitigation package has been developed by the Contractor with MNCPPC input and has been reviewed and approved by MNCPPC for impacts and mitigation associated with MNCPPC properties.
54.	Prince George's Planning	DEIS-General	In lieu of a final compensatory mitigation package provided by the Contractor, MNCPPC requests the Contractor's contract documents stipulate a 10% of total project cost set aside for the design and construction of all mitigation projects and commitments during Phase I of project construction.
55.	Prince George's Planning	DEIS-General	MNCPPC requests that all MDE required and USACE required mitigation sites and privately-owned mitigation bank credits be located within the MNCPPC jurisdictions.

Comment No.	M-NCPPC Department	Reference	Technical Comment
56.	Montgomery Planning	DEIS-General	<p>The DEIS should reflect the phasing of the project. For a project of this scope that is being implemented in phases with a significant time delay between each phase, Therefore, the NEPA process should be reflective of the approved phasing for development as approved for implementation by a P3.</p> <p>The RPA and its impacts for later phases will be more appropriately determined based on the outcome from earlier phases of development. For example, the outcome of Phase 1 -the Western Corridor may provide relief of the ALB bottleneck more reliably than theoretic modelling for the next Phase of the project.</p>
57.	Montgomery Planning	DEIS-General	Please provide more-detailed volume information for the managed lanes by providing a breakdown of HOV3+, transit, and tolled traffic for each road segment.
58.	Montgomery Planning	DEIS-General	The use of a simplistic 45-mph average speed to determine the 1,600 to 1,700 vehicles per hour per lane in the managed lanes was not validated to ensure that the managed lane vehicles would achieve the travel time savings that they are willing to pay. Without this validation, how can we have any faith that the modeled traffic assignments are reasonable? This is supposed to represent a typical average day condition.
59.	Montgomery Planning	DEIS-General	The removal of the collector-distributor (CD) lane system along I-270 was included as part of all the proposed Build Alternatives allowed for the proposed lanes to occupy existing paved areas rather than having to further expand the limits of disturbance and potentially increase environmental impacts. This change was made midstream during the Alternative Evaluation stage. M-NCPPC has previously commented that the inclusion of the conversion of I-270 from a local/express system as part of all Alternatives actually hides the incremental benefits of the actions proposed. A separate analysis should have been prepared of Alternative 1 with the local/express system removed to provide this comparison. Not doing this fairly simple analysis leads to the concern that the majority of the transportation benefits on I-270 are due more to the reconfiguration than due to the managed lanes.
60.	Montgomery Planning	DEIS-General	We recognize that simplistic assumptions are sometimes needed, particularly when there are many unknowns; however, we still feel that this critical part of the managed lane system (HOV use) deserves more analysis than presented in the DEIS. How have managed lanes in other jurisdictions fared regarding HOV usage when converting a highway with an HOV lane to a managed lane? There must be some examples in Virginia or Texas? It is pretty clear that the future HOV to be selected will be HOV 3+ given the need for consistent interoperability with the VDOT managed lanes. Why not just assume that? Changing HOV use from 2+ to 3+ can significantly reduce HOV demand, depending on congestion. If anything, this is a conservative assumption, and it would have allowed the analysis to provide meaningful data on how HOV travel would be impacted. So right now, we have no idea whether managed lanes will in fact increase or decrease HOV travel with HOV 3+ cars or shifts to public transit. Please assume HOV3+ and re-run the evaluations by modeling

Comment No.	M-NCPPC Department	Reference	Technical Comment
			HOV mode choice and present these results.
61.	Prince George's Planning	DEIS- pg.5, section 1.2.2	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and the Department of Parks and Recreation intends to have site restoration and mitigation for all temporary usage areas. The Department of Parks and Recreation requires land to returned to the Department's satisfaction. The restoration and mitigation will need to be approved by the Department of Parks and Recreation. A temporary use can, and often does, result in permanent impacts and the Department of Parks and Recreation will review and only permit temporary use after an agreement about proper restoration and mitigation is reached.
62.	Prince George's Planning	DEIS-pg.6	Total wetland impacts acreage seems too low. Please verify.
63.	Prince George's Planning	DEIS- Pg. 6 Table 2-1	Please show impacts by County.
64.	Prince George's Planning	DEIS- Pg. 6 2.1.2	"An assessment of temporary construction impacts will occur in later phases of design". We find this unacceptable as the definition of temporary construction impacts is too open-ended and broad. Please provide specific details at 30% plans level for review."
65.	Prince George's Planning	DEIS-Pg. 7	Please add a paragraph discussing County specific mitigation requirements for parkland beneath the NPS section.

Comment No.	M-NCPPC Department	Reference	Technical Comment
66.	Prince George's Planning	DEIS-Pg.8	Criteria for elimination of mitigation sites is too strict.
67.	Prince George's Planning	DEIS- Pg. 10-11	Forest Conservation areas – criteria for woodland replacement is too strict. Consider replacing trees on the Public ROW. Plant trees in EJ Communities for air quality and noise quality abatement, heat island abatement and for social justice. If the State reviews and finds trees are being removed rather than forest then the tree removal should be mitigated in Public ROW using the Street Trees Program and next generation shade trees in parks in close proximity to the Beltway. Prince George's County is prepared to provide GIS inventory of locations for tree planting.-
68.	Prince George's Planning	DEIS- Pg. 11 Table 2.2	Please provide impacts to trees on public land and private land.
69.	Prince George's Planning	DEIS- Pg. 12	MNCPPC Prince George's will also require replacement of trees on MNCPPC-owned parkland.
70.	Prince George's Planning	DEIS-Pg. 12	Please add a paragraph discussing the Street Tree Program in Prince George's County.
71.	Prince George's Planning	DEIS-Pg. 13	The presence of Federal and State listed species have not been confirmed within the study boundary. Please confirm the presence Federal and State listed RTE species prior to the FEIS/ROD and submit the report to MNCPPC for review.
72.	Prince George's Planning	DEIS-Pg. 14	Please provide survey results for the Butterfly Scorpion Weed to MNCPPC.

Comment No.	M-NCPPC Department	Reference	Technical Comment
73.	Prince George's Planning	DEIS Pg. 14	Confirmed location NLEB and IB will receive buffer. Don't we need to plant Loblolly Pine as mitigation? provide the results of the bat survey from the 2020 season
74.	Prince George's Planning	DEIS- Pg. 16 section 2.4.1	MNCPPC administers 2200 acres SVPs. This statement is low. 18,000 acres in PG alone. Please clarify that it is 2200ac of Capper-Crampton SVP PG and MC.
75.	Prince George's Planning	DEIS Pg.ES-16 Chapter 5	Please retain the word "significant" when related to parkland so that they qualify for Section 4(f) protection.
76.	Prince George's Planning	DEIS- Pg. 17-18 section 2.4.2 Table 2.3	Publicly owned parks of build alternatives table should reflect the owner of the parkland. Add comment to denote land acquisition program such as Capper-Crampton Act, Program Open Space, etc.
77.	Prince George's Planning	DEIS- Pg. 18	Refer to Appendix F – please include a summary of information here instead of referring away to different section.
78.	Prince George's Planning	DEIS- Pg. 19	Clarify where the Suburbanization Historic Context Addendum 1961-1980 is provided. Is this a State or Federal document?
79.	Prince George's Planning	DEIS- Pg. 19	Traffic data baseline year is set to 2017. This baseline is nearly 4 years old. What is the year by year percentage of increase assumption?

Comment No.	M-NCPPC Department	Reference	Technical Comment
80.	Prince George's Planning	DEIS Pg-19	Please include a Year 2020 traffic analysis into the data to reflect the current change in driving patterns due to an increase in teleworking.
81.	Prince George's Planning	DEIS- Pg. 20-22	Figure 2-1-2-3 mapping is difficult to read in hard copy form. Please change to Landscape orientation and enlarge.
82.	Prince George's Planning	DEIS- Pg. 26 Table 2.6	Every alternative shows TBD. Please provide specific details on noise abatement and sound barrier location.
83.	Prince George's Planning	DEIS- Pg. 33-34	Air Quality and Trees could be used inside ROW to reduce pollutants.
84.	Prince George's Planning	DEIS- Pg. 35	Properties Relocations- is this number final or does MDOT anticipate increases in Relocation?
85.	Prince George's Planning	DEIS- Pg. 36 and Pg.11	Tree Mitigation Cost- would be \$45m to offset the tree impacts from this project based on \$3000 an acre based on Tree Mitigation Bank
86.	Prince George's Planning	DEIS- Pg. 40	Prince George's County population has grown by over 35% since the highway was completed and is predicted to grow an additional 16%. How can existing culverts accommodate that level of growth and runoff from impervious surface? Please review all SWM facilities to accommodate current conditions.

Comment No.	M-NCPPC Department	Reference	Technical Comment
87.	Prince George's Planning	DEIS- Pg. 45 Table 3-10	Are the traffic model forecasts assuming all of the proposed projects listed in Table 3-10 will be built in the same timeframe as the Managed Lanes Project to alleviate congestion?
88.	Prince George's Planning	DEIS- P45-46 Figure 2-29	Figure 2-29 Volume Validation shows a +/- at 20%-45%. This seems exceptionally high range to base a traffic model on. A 45% difference between estimated and observed counts and screenline seems too large to be accurately used for volume assumptions. Please explain.
89.	Prince George's Planning	DEIS- Pg. 48 Figure 2-29-2-33	HOV Lane Data- what is the percentage of use of increase year over year for Non Tolloed HOV lanes?
90.	Prince George's Planning	DEIS- Pg. 50	New capacity through the Managed Lanes project could increase demand for growth in the area which will create increased secondary demand on schools, parks, local roads, etc. How is this expanded demand accounted for and mitigated by this project?
91.	Prince George's Planning	DEIS-Pg. 50	The Alternatives seem to primarily address the unmet need for expanded traffic/transit from previous growth. Do all of the alternatives address the forecasted anticipated growth?
92.	Prince George's Planning	DEIS Pg.51	Please include the discussion of Indirect Community Impacts by County here instead of referring the reader to the Technical Report in the Appendix.
93.	Prince George's Planning	DEIS-Pg. 52	Do the Screened Alternatives Cumulative Impacts take into account partial takes of private property or just full residential locations? Have you included in your cost estimates that some partial takings may result in full takings due to removal of access or other essential facilities?

Comment No.	M-NCPPC Department	Reference	Technical Comment
94.	Prince George's Planning	DEIS-Pg. 52	The analysis states that this proposed project will impact 24%-28% of the Environmental Justice Community with residential relocations and impact 25% of Environmental Justice Community businesses. What avoidance, minimization and mitigation measures have been taken to reduce this significant impact to the Environmental Justice community?
95.	Prince George's Planning	DEIS-Pg. 54	The statement "The impacts to parkland would primarily be narrow strips of ROW taken...and would not have the effect of bisecting existing facilities in most instances..." is incorrect. Please revise with the correct parkland impacts and discuss the cumulative effect of the loss of <u>any</u> parkland in a heavily urbanized area.
96.	Prince George's Planning	DEIS-Pg. 76	MWCOG model assumes Land Use as "mostly built out today and will be even more so by 2040". How can the model assume no additional build out for the next 20 years? What is the year by year increase in land use change in each County?
97.	Prince George's Planning	DEIS- Pg.76	Cherry Hill Road Park – mentions impacts from construction vehicles - will access be provided through the park or from I-495 only?
98.	Prince George's Planning	DEIS Pg. 77	How will the Stormwater Management Vault be maintained?
99.	Prince George's Planning	DEIS- Pg. 100	Impacts to Henry P Johnson Park from existing and future noise must be mitigated.
100.	Prince George's Planning	DEIS- Page 2-5 and page 102 Section: Alts Tech Report	How will incidences and congestion be measured on parallel roads via the IAPA memo? How will they be mitigated during the construction and operation of the ML?
101.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	The costs of construction will be covered over a 50 period with the bonds that the concessionaire will take out. How much will these cost the residents of Maryland? Does this include the costs for removing underground infrastructure? Who pays for that and how is that fiscally viable?

Comment No.	M-NCPPC Department	Reference	Technical Comment
102.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	Will the process of securing a municipal bond and financing of this project be made public and transparent? Based on the challenges of the Purple Line, is the market open to accepting bonds backed by the State of MD? Again, how will underground infrastructure under the Beltway be moved and who bears that cost? The residents of the Prince George's and Montgomery County were told that there is no cost for this project, now we understand this isn't the case.
103.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	While MDOT initially had high hopes for the P3 concessionaire for the Purple Line, it has become a financial nightmare. How can this project avoid the pitfalls of the Purple Line by allowing this P3 concessionaire to walk away from the project? The state and local jurisdictions cannot afford this additional project cost and will be considerably impacted.
104.	Prince George's Planning	DEIS- Page 2-7 Section 2.3	The breakdown of the segments mentioned as a part of Visualize 2045 make more sense as three projects which is why the logical terminii keeps coming up. The promise that another NEPA process for MD 5 to WWB will be proposed with no details or information about how, when and whether appropriate coordination will be required by the P3 Concessionaire, while I-270 moves forward, is unjust.
105.	Prince George's Planning	DEIS- Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives.
106.	Prince George's Planning	DEIS-Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives
107.	Prince George's Planning	DEIS- Page 2-33 Section 2.7.1	Full access to the UM Prince George's Hospital Trauma Center, is of paramount importance to Prince George's County. Emergency vehicles should not have to choose which exit to use. Full access deserves additional detailed study once the improvements are further defined and the design has advanced.
108.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible. It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This

Comment No.	M-NCPPC Department	Reference	Technical Comment
			includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted
109.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources
110.	Prince George's Planning	DEIS- Page 2-38 Section 2.7.2	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement. In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.
111.	Prince George's Planning	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.
112.	Prince George's Planning	DEIS- Pages 2-40	When the preferred alternative is chosen, and the detailed stormwater analysis is completed, the LOD will need to be altered to potentially accommodate additional areas of adjacent (on-site) stormwater management. What is the specific process that will be established in order to allow for these LOD changes? This process needs to be agreed upon early and documented in the FEIS, ROD, and P3 agreement.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.4 DEIS	
113.	Prince George's Planning	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
114.	Prince George's Planning	DEIS- Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
115.	Prince George's Planning	DEIS- Page 4-101 Section 4.16.4	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
116.	Prince George's Planning	DEIS - Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.
117.	Prince George's Planning	DEIS- Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
118.	Montgomery Planning	DEIS- Page 2-2, 2-21, 2-22	The analysis of the MD 200 Diversion Alternative as an avoidance technique for impacts to the top side of 495 was flawed. The request to include it did not consider the rationale. No analysis was done that looked for means to motivate drivers to use the ICC as opposed to 495 when the travel route makes sense. Through consideration of TSM/TDM approaches such as dynamic signage and consideration of changes in operations (speed limits) on the ICC, whether it would draw some of the traffic off of 495 and open that segment with reduced vehicles would address the question whether there is a need to increase capacity with the Build Alternatives, and if so whether Alternative 9M is enough.
119.	Montgomery Planning	Page 2-5 and page 102 Section: Alts Tech Report	The local roadway network evaluation is entirely inadequate to address concerns of local traffic changes, and we firmly believe that this information is needed at the DEIS/Alternatives Analysis stage, not at the IAPA/FEIS stage. Local traffic impact might be a critical factor in selecting which Alternative works for concerned citizens and localities, and the deferral of the detailed evaluation. While the managed lanes may in fact reduce local traffic overall, that statistic is more as important as locations where the managed lanes will increase traffic and add to existing congestion. This is a particular concern where direct access locations at

Comment No.	M-NCPPC Department	Reference	Technical Comment
			interchanges are proposed, including the managed lane only interchanges. Any mitigation needed to offset project-related impacts must be the responsibility of the P3 to address.
120.	Montgomery Planning	DEIS: Page 2-16 Section 2.5.2	We disagree with project elements (conversion of existing 3 hour HOV lanes into 24/7 tolled lanes where HOV MAY drive for free or get a discount) that provide improved capacity for paying customers at the expense of existing drivers in general-purpose lanes while providing worse traffic operating conditions in those GP lanes than under No-Build conditions. This is unfair to existing commuters who have waited for years for meaningful road or transit projects from MDOT, and who now have extremely long and congested daily commutes. There is so much peak spreading today, particularly from longer-distance commutes in Frederick County and points further west, that I-270 is jammed in Urbanna and Clarksburg at 5AM, 3PM before the evening rush hour, and still jammed at 7PM. Meanwhile, Upcounty Montgomery County residents pay the price for this lack of long-term planning that has not expanded in a meaningful way rail transit, bus transit or addressed existing highway bottlenecks..
121.	Montgomery Planning	DEIS- Page 2-16 Section 2.5.3	MD 200 Diversion Alternative should be moved forward as an ARD and studied in more detail, including analyses with and without the I-95 segment. It is irrelevant whether the managed lanes is a “closed” system as established by the terminus at Exit 5 in Prince George’s County. The O/D data indicates only a 5% usage between Prince George’s and north of I-270. The data indicates significant potential for use (20%) between the ALB and north I-95, which does not support managed lanes on I-95 between MD 200 and I-495. In fact, it acts to the detriment of diverting traffic by encouraging travel beyond MD 200 to I-495 East. I-95 now acts as a bottleneck to filter traffic onto I-495 and does this quite well. The MD 200 Diversion Alternative without this I-95 section would likely have very different results, which cannot be discerned with the information provided in the DEIS. Without the I-95 segment, the reduction in environmental impact provides a greater benefit for the MD 200 Alternative under 4(f). Inrix data today suggests that peak period travel in the southbound direction between I-95 at MD 200 and the American Legion Bridge is in fact faster on a regular basis using MD 200. Missing from this evaluation was a comparison of the existing TTJ, PTJ, and average travel time between the I-95/MD 200 interchange and the American Legion Bridge by direction and by peak period and projected travel times in 2040.
122.	Montgomery Planning	DEIS- Page 2-21 Section 2.54	The DEIS does not indicate whether a composite of Alternatives would be considered at different segments of the Study Area. Due to the size and scope of the project (48 miles), different segments of the effected highways, as well as impact to the surrounding road network does not lend the project to a single solution. There are multiple environmental, cultural and transportation impacts and solutions along the route, and therefore the selection of a single alternative may not be the better solution.
123.	Montgomery Planning	DEIS- Page ES-7 Page 2-35,	Regardless of whether heavy or light rail are considered as possible Alternatives for this project, structural accommodation for future rail across the ALB is the forward thinking design. The ALB will be not be replaced again for 50+ years, and this is the opportunity to build for the future. Besides, every other Alternative was analyzed for 2045, so why not the ALB? A design can be developed to minimize additional environmental

Comment No.	M-NCPPC Department	Reference	Technical Comment
			impact.
124.	Montgomery Planning	DEIS- Page 2-36	We object to MDOT SHA's refusal to consider equity as part of their project design. This includes income-level toll scaling, and other measures. They are essentially justifying an inequitable transportation project by design, and the lack of concern that income-based toll scaling may be needed, is proof of this disregard. In the current transportation paradigm, projects MUST be designed with equity in mind and as part of the Alternative selection process. Deferring EJ issues to the Preferred Alternative is too late, particularly if EJ impacts are severe.
125.	Montgomery Planning	Page 2-39 Section 2.8 Section 6.2.3, Alts Tech Report	<u>Lack of Financial Viability.</u> Each of the alternatives would require a significant state subsidy, which is contrary to all of the representations throughout the process that no taxpayer dollars would be required for the project. In fact, each of the alternatives would require some subsidy without description of the funding source. Section 6.2 presents a range of economic outcomes based on two metrics, interest rates and capital costs. The full cash flow tables are available in Section 6.2.3 in the Alternatives Technical Report (Appendix B of the DEIS). Because the cost estimates are preliminary and subject to change with market conditions , and based on the Purple Line experience, the contingency built into the estimates should extend to include risks due to potential delays for construction, land acquisition , and cost of litigation.
126.	Montgomery Planning	DEIS- Page 2-41	MDOT SHA has failed to consider local input and support for Master Plan goals within Montgomery County Master Plans and Transportation Demand Management Districts. How does the managed lanes project impact major activity centers and their non-auto driver mode share (NADMS) goals as specified in various adopted master plans and the new TMD regulations? NAMDS is a primary performance metric in many of Montgomery County master plans, and now per the TMD regulations, they apply countywide. We really have no information in the DEIS whether the managed lanes will help or hinder the NADMS goals in many of our master plans, because this has not been evaluated during the DEIS.
127.	Montgomery Planning	DEIS- Pages ES-12 Section ES, DEIS & Env Justice Section Page 4-13 thru 4-19 Section 4.5	On Table ES-2, for the metric Annual Average Hours of Savings per Commuter, does not distinguish which populations benefit. It is not appropriate to state that everyone is benefiting without an adequate analysis of the impact to EJ Communities. Determination of impacts to the EJ Communities at the FEIS will not address the systemic racism that occurs when marginalized communities are not asked to assist with the decisions at the outset, but only asked to fix the problem after it occurs. Disproportional benefits must be included as part of the EJ analysis. The vast majority of the travel time benefits will be provided to non-EJ populations, based on the design of the facility and the basic idea of managed lanes (travel time benefits for drivers willing and able to afford the tolls). Focused corridor-based public transit investment, adding or modifying access locations, and developing a toll subsidy program, should be addressed as part of the recommendation for the RPA.

Comment No.	M-NCPPC Department	Reference	Technical Comment
128.	Montgomery Parks	DEIS- ES 5 – Chapter 5	Add language stating that all M-NCPPC Parks are significant.
129.	Montgomery Parks	DEIS-Page 10 Section 1.2.7 App F Draft Section 4(f) Evaluation	Parkland impacts can only be considered de minimis if there is sufficient mitigation approved by MNCPPC. Parks with impacted resources will require reconfiguration to make the park whole and mitigation for the loss of parkland will be in addition to the onsite work.
130.	Montgomery Parks	DEIS-Page 10 Section 2.2 App Q Conceptual Mitigation Plan	MNCPPC Montgomery Parks will require tree replacement for trees removed on parkland, this will be above and beyond any regulatory requirements.
131.	Montgomery Parks	DEIS-Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	The resources identified in the project area are finite resources that provide essential natural resource value in an already heavily developed landscape. Once the avoidance and minimization process is applied to all natural resources on parkland, there may be areas that are too heavily impacted to continue to have meaningful ecological function; in these areas it may be appropriate to investigate adding SWM or other project needs. SHA must coordinate with Parks during preliminary design to adequately reduce impacts to forests. Relying on incentives to the concessionaire will not be sufficient to provide the required avoidance and minimization on parkland. In addition to Forest Conservation obligations, tree impacts on parkland will also be subject to mitigation for the actual loss of trees and the appropriate number of plantings necessary to make the park whole.
132.	Montgomery Parks	DEIS- Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	All parkland must be considered of the highest value for the avoidance and minimization process, as is mandated by the Policy for Parks. As discussed in other comments, MNCPPC does not concur that all reasonable measures to mitigate or minimize harm have been fully developed. As an Official with Jurisdiction, MNCPPC will require further coordination to minimize and mitigate impact as is described in the other comments
133.	Montgomery Parks	Page 94 Section 6.1.6 App B Alternatives Technical Report	As MNCPPC stated during the review of the ARDS, the approach of not considering environmental impacts as a differentiator between the preliminary screened alternatives is a flawed approach directly in conflict with the intent of the NEPA process. A major component of the NEPA process is to identify environmental impacts and to utilize the differences, as small as they may be, to select an alternative that avoids and minimizes potential impacts.

Comment No.	M-NCPPC Department	Reference	Technical Comment
134.	Montgomery General	Page 1-14 Section 1.8.2 Section 4f	Environmental responsibility must include language that requires - in the following order avoidance, then minimization of impact, then mitigation at equal or greater natural, cultural or recreational value.
135.	Montgomery General	DEIS page 2-37 section 2.7.2	MDOT SHA should add specific language in the FEIS that commits to utilizing innovative drainage techniques (such as water quality inlets, trash racks, and grit collectors, etc.) in all viable locations to take every opportunity to reduce the transfer of trash and pollutants from the MDOT SHA roadway into adjacent aquatic resources. There is currently no formal commitment from MDOT SHA to use these techniques in the final design.
136.	Montgomery Parks	DEIS Page 2-37 and 2-38 Section 2.7.2	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p>
137.	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	<p>The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible.</p> <p>It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
138.	Montgomery Parks	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's minimum regulatory stormwater requirements to actually address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources</p> <p>It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis of the SWM design until the highway design is at a later stage will not allow MDOT SHA to adequately address the SWM needs and aquatic resource protection and enhancement.</p> <p>MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM, but only when all on-site locations have been proven to be exhausted.</p> <p>It is important to note that the new impervious areas are not the only consideration. The highways within this project area (I-495 and I-270) traverse some of the most urbanized areas of Montgomery County. There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
139.	Montgomery Parks	DEIS: Pages 2-37 - 2-39	Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.2	<p>and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
140.	Montgomery Parks	DEIS: Page 2-38 Section 2.7.2	<p>Based on our field investigations, many existing culverts (most CMP with concrete outfalls) are failing (both in size classes <36" and >36"). When failing culverts are identified in the project footprint, they should be replaced with natural bottom culverts (where appropriate in perennial systems to promote aquatic passage) and stable environmentally enhanced outfalls to protect downstream resources. Understand that this comment from M-NCPPC is unrelated to any separate regulatory requirements regarding aquatic organism passage. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit in the FEIS and ROD to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p> <p>Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as an element of a Park mitigation package, but the intent must be included in the roadway design plans reflected in the FEIS and ROD.</p>
141.	Montgomery Planning	DEIS - Page 2-38 Section 2.7.2	<p>SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>
142.	Montgomery General	DEIS - Pages 2-38 Section 2.7.2	<p>M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Any SWM requirement deficits should first be met within the existing highway network and secondly within the impacted watershed.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
143.	Montgomery Parks	DEIS-Pages 2-39 Section 2.7.2	<p>More information on the stormwater treatment levels and adequacy of available SWM as shown needs to be provided now, while many design decisions are being made and an LOD is getting set. Specifically, a drainage area breakdown to all the POIs including total drainage area, impervious area, required treatment and treatment provided should be provided to all stakeholders.</p> <p>Additionally, what are the innovative approaches that may reduce the amount of offsite treatment? These need to be identified in the FEIS and ROD. Why would these approaches not be considered now? Is it possible that further analysis and design could actually increase the need for offsite SWM?</p>
144.	Montgomery Parks	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.
145.	Montgomery Parks	DEIS page 2-40 section 2.7.4	<p>The current LOD, as currently proposed by MDOT SHA, is unrealistic to depend on for impacts to parkland as it is a preliminary planning tool.</p> <p>A workable process for modifying the LOD that actually prioritizes land owner's interest and protecting resources, must be agreed upon between M-NCPPC and MDOT SHA and codified in the FEIS and ROD.</p>
146.	Montgomery Parks	DEIS Page 4-3 Section 4	<p>The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. For example, there are numerous existing degraded stormwater outfalls from the beltway that should be included in the project, and therefore the LOD so that they can be restored. The inclusion of these elements within the LOD would require an expansion of the LOD, but would result in an improved environmental condition. To date, MDOT SHA has been focused on minimizing the LOD to show the lowest impact to resources on paper, but not necessarily to achieve the lowest impact in the real world.</p> <p>We will want to see this reflected in our ongoing coordination with the project team, as well as formally in the FEIS, the ROD, and in the P3 agreement.</p>
147.	Montgomery Parks	DEIS- Page 4-34, 4-63, 4-66 Sections 4.6.3, 4.9	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations in the FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			See comments from Appendix D regarding noise barriers shown on Environmental Resource Maps for specific noise walls comments.
148.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources. In sensitive watersheds, this equates to going above the minimal regulatory ESC practices with additional BMP's to protect downstream resources during construction. MDOTS SHA needs to commit to these additional BMP's during construction in sensitive watersheds in the FEIS.
149.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
150.	Montgomery Parks	DEIS- Page 4-83 - 4-87 Section 4.12.4 DEIS	M-NCPPC appreciates the response from SHA that "MDOT SHA will continue to coordinate with M-NCPPC and the regulatory agencies to refine the LOD at Section 4(f) properties for the Preferred Alternative." As noted in other comments, a process for LOD changes must be created and documented (in the FEIS, ROD, and P3 agreement) for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy. Parks has submitted numerous detailed comments concerning the LOD. Parks appreciates both past and future efforts to reduce the LOD and construction impacts. However, Parks does expect the LOD to increase in some areas to allow room for appropriate work to occur to restore, stabilize, and protect various natural resources. An important aspect of avoidance and minimization is minimizing the roadway footprint while still potentially keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas.
151.	Montgomery Parks	DEIS-Page 4-84 - 4-85 Section 4.12.4	Parks requests details on retaining wall installation when being installed on or near a stream bank, Rock creek is an example. Due to the likelihood of needing an LOD expansion into sensitive resources, M-NCPPC requests further analysis of these areas before the FEIS and ROD. As noted in other comments, a process for LOD changes must be created for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy.
152.	Montgomery Parks	DEIS-Page 4-86 Section 4.12.4	Parks supports avoidance and minimization but requests adequate LOD to ensure stable tie in for outfalls, protection and restoration of stream banks, and to improve resources on-site that are impacted by the project. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls. Based on the limited information available, M-NCPPC believes that there are numerous locations where the LOD is not adequate for construction.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>LOD flexibility and changes are essential to ensure adequate environmental protection and cost-effective construction. The current LOD is based on standard roadway sections and modeling, and with better information from field investigations and further design, the LOD will need to be adjusted. The current LOD is preliminary and it should not be locked in at this point for the remainder of the project. The issue is that the P3 process may not provide the flexibility to adequately modify the LOD; This has been an issue with the Purple Line Project. As M-NCPPC has learned with many other projects, including the Purple Line, creating a “right sized” LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.</p>
153.	Montgomery Parks	DEIS-Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
154.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will provide tree species, locations, and planting requirements for forest mitigation as outlined in the memo sent to MDOT SHA.
155.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
156.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will require that access and hauls roads comply with Park Standards to protect existing resources. These measures are not mitigation but are part of operating on parkland.
157.	Montgomery Parks	DEIS- Page 4-101 Section 4.16.4	M-NCPPC appreciates the commitment from MDOT SHA to implement the maximum forest mitigation plantings within the affected watersheds. Parks expects to work collaboratively on locations on Parkland for trees removed from parkland.
158.	Montgomery Parks	DEIS -Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.

Comment No.	M-NCPPC Department	Reference	Technical Comment
159.	Montgomery Parks	DEIS - page 4-108 Section 4.18.3 Table 4-29	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
160.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
161.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	More emphasis needs to be put on the protection and restoration of aquatic habitat within identified sensitive aquatic resources. This is made more critical given the proposed longer culvert lengths. Culverts should holistically be installed/rehabilitated/replaced with an environmentally sensitive culvert design strategy. M-NCPPC looks forward to continued collaboration “in the future as part of the design and construction coordination.
162.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Fish relocation from dewatered work areas on parkland will be required; this is not considered minimization or mitigation; it is a requirement.
163.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
164.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted 2017 Park, Recreation, and Open Space (PROS) Plan.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County • Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities • High quality wetlands, including those of Special State Concern as noted in COMAR Title 26 • Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy • Special Trout Management Areas as noted in COMAR Title 08 • Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
165.	Montgomery Parks	DEIS-Page 5-9 Table 5-2	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
166.	Montgomery Parks	DEIS- Page 5-12 Table 5-3	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
167.	Prince George's Planning	DEIS- App. A Alternatives Technical Report pg. 103	How are the mitigation costs incorporated into the financial viability analysis if they are unknown at this point? It is a percentage of the total project cost?
168.	Prince George's Planning	DEIS- App. B Traffic Analysis Report pg. 81	We question whether +/-20% is an acceptable range? That seems like an especially large margin when we are discussing peak traffic volumes.
169.	Prince George's Planning	DEIS- App. F Page 5 Section 1.2.2 App. F	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	restoration and mitigation is reached. As a landowner M-NCPPC will determine the restoration of temporary use areas.
170.	Prince George's Planning	Appendix N	MNCPPC staff is requesting a copy of Appendix N – Draft 404(b)(1) Evaluation for review and comment.
171.	Montgomery Planning	App. A Page 115	We object to MDOT SHA's negative portrayal of reversible managed lanes as a concept. This has subjectively biased this evaluation. The rating of "low" for Alternative 13B as having a "low" ease of use due to the reversible lane system appears to overlook that a reversible lane system is very successfully in operation in the Commonwealth of Virginia on I-95 and I-395 and works quite well in a constrained environment when traffic flows are directionally peaked. This type of concept has merit precisely when space is constrained, and you are not able to widen outside the ROW. A lot of time has been spent to "bash" a concept in successful practice by VDOT for many years within the Greater Washington DC metropolitan area. While off-peak capacity and throughput are reduced, much of the negative discussion on page 115 is counter-productive and leads the reader to conclude that the final solution is already decided. This concept does have value, and the discussion should reflect that.
172.	Montgomery Planning	App. B Page 65 Section 3.3 Traffic Tech Report	Please document how you determined that peak spreading would reduce and how this would vary by alternative. How does this peak spreading affect transit and HOV usage? On 1-270, there is significant traffic flow outside of the peak period, and general-purpose traffic relies on the use of the existing HOV lane (when HOV usage is not enforced) to travel on 1-270. With the elimination of this off-peak benefit, to what extent will some of this traffic shift back to the peak period? In order to determine this accurately, you would need to understand the elasticity of travel patterns, and to what extent typical driver behavior has been shaped by congestion. So, if the American Legion Bridge will continue to be congested in the general-purpose lanes even with the managed lanes in place, is the price offered in the managed lanes enough enticement to shift when drivers start their commute? The FEIS should include considerably more evaluation of the off-peak hours and a more refined evaluation of peak spreading.
173.	Montgomery Planning	App. B Page 74 Section 4.1. C Traffic Tech Report	The FEIS should include considerably more evaluation of latent demand and induced demand. The section on latent demand and induced demand in the DEIS is not clear and extremely vague. The first sentence notes that both latent demand and induced demand have been accounted for. Then, no data is provided to document either demand case. The last part of this paragraph seems to indicate that further evaluations on induced demand has not been conducted but will be conducted when a Preferred Alternative is selected. Please modify this paragraph to correctly state what has been done, provide a summary of that work and conclusions, and note future efforts for the Preferred Alternative with the reason that this work cannot be performed for this DEIS. MWCOG not having a procedure is not a valid excuse to not to perform this evaluation. These concepts are well known, and this DEIS should have spent considerable time looking into this issue. A good technical

Comment No.	M-NCPPC Department	Reference	Technical Comment
			reference that should be considered for use in estimating generated traffic and induced demand has been prepared by the Victoria Transport Policy Institute.
174.	Montgomery Planning	App. B Page 107 Section 5.3 Traffic Tech Report	More evaluation of likely transit and HOV use should be prepared in the FEIS with projections, not simplistic assumptions. The DEIS does not account for trips using bus service. Although transit buses will be permitted to use the managed lanes, specific transit routes are currently undetermined and therefore, appropriate bus throughput cannot be assessed at this time." As part of a DEIS, the team should have done very basic data collection to inventory existing bus routes and ridecheck data for these routes. On I-270, this would include MTA buses and some RideOn buses. This is unacceptable, when you are reporting and projecting Person Throughput and data sources are available, and I assume, the model can even be used to estimate future bus ridership. More documentation is needed in this DEIS to support what existing buses and bus ridership currently use I-495 and I-270 and how this is projected to change with the project Alternatives. Without an accurate assessment of existing and future transit ridership, how can you possibly assess modal shift?
175.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls and stream stabilization. LOD on all maps needs to allow for future designs to appropriately tie into existing Park features; this is especially true of stream channels and outfalls. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
176.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	LOD will need to be updated for the FEIS to reflect the potential for additional SWM facilities. Parks has noted numerous locations where additional SWM might be possible and expects further coordination to finalize these locations
177.	Montgomery Parks	DEIS-General Comment App D Environmental Resource Maps	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations.
178.	Montgomery Parks	DEIS-App D Environmental	Cabin John and Rock Creek Stream Valley Parks both provide unique, high quality natural refuge in otherwise urbanized areas. Noise abatement measures in the form of noise walls are essential around natural resource

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Resource Maps, Map 60, Map 64, Map 65	areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Noise pollution created from anthropogenic activities has been cited as an increasing source of disruption to habitat suitability for wildlife. In addition, noise walls around natural resource areas provide auxiliary benefits of reducing human-wildlife interactions on the highway which is beneficial for human health and safety, traffic flow, and wildlife. These parks should be given particular consideration when it comes to noise abatement measures and noise walls should be considered essential to the parks' functions in providing valuable, natural refuge for both park patrons and wildlife inhabitants. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
179.	Montgomery Parks	DEIS-App D Environmental Resource Maps, Map 64, Map 65	Rock Creek Trail is one of the most popular trails in the DC Metro area and provides high-value natural and recreational services to the community in an otherwise urbanized environment. Noise walls adjacent to this valuable trail system and adjacent local parks are essential to providing the highest quality services to trail patrons and the surrounding human and wildlife communities. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
180.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 69	Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at this priority location.
181.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 114 and 115	Noise walls should be considered essential around Cabin John and the Robert C McDonell campground, where quiet and serenity serve a significant public need. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention, and is part of the intended objectives of campground function and appeal. Parks requires noise walls be implemented adjacent to Cabin John and the Robert C McDonell campground and anticipates a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
182.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – all drainage from road should be assessed to implement the most sustainable drainage solutions, simply replacing structures in kind or in the same location is not sufficient due to the steep slopes. Parks would like to evaluate the potential for combining flows from multiple outfalls, incorporating longer pipe lengths, and other measures to reduce long term erosion. All concrete flumes should be removed. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.

Comment No.	M-NCPPC Department	Reference	Technical Comment
183.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 807+00 - Increase LOD to tie in new pipe into the existing degraded channel. Create step pools in the existing channel. Extend LOD to end of SHA stream polygon or approximately 250ft down channel from existing LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
184.	Montgomery Parks	DEIS-	Northwest Branch STA 800+00 R- restore and enhance all outfalls on the southside of the beltway, remove concrete flumes, incorporate step pools, considering piping to outfall at lower elevations. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
185.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 801+00 L - Outfall on the North side of the Beltway and east of NWB is degraded, include entire outfall to NWB in LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
186.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R 200ft – Outfall channel within proposed access road area is degraded, integrate enhanced outfall into site stabilization after bridge reconstruction. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.

Comment No.	M-NCPPC Department	Reference	Technical Comment
187.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R – Temporary use often creates a permanent impact and will need to be mitigated for as a permanent impact.
188.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 797+00 The trail must be restored to park standards after construction. The trail should remain open as much as possible during construction. A detour shall be provided any time the trail needs to be closed.
189.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 L - Outfall degraded. Concrete flume then minor erosion down steep channel. Investigate redirecting this runoff. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
190.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+95 R - Multiple failed concrete outfalls. Holistic approach to drainage and outfall on this portion of the alignment is needed. Consider piping outfall to lower elevation then outfall for all flow in area. This location needs immediate attention from SHA. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
191.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+00 L - Potential channel restoration. Extend LOD all the way to tributary to stabilize. Consider piping this water elsewhere. Severely eroded Outfall, not sure if water is supposed to be coming to this spot or is inadvertently coming down slope. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require

Comment No.	M-NCPPC Department	Reference	Technical Comment
			stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
192.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 792+00 L - Outfall degraded, if this outfall stays in this location, expand LOD 150 down channel to build enhanced outfall. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
193.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Brookview STA 823+00 – Investigate Potential SWM location with Parks. Due to the high impact on aquatic resources from this project all SWM opportunities near the project must be considered.
194.	Montgomery Parks	DEIS, App. F Page 5 Section 1.2.2 App. F Draft Section 4(f) Eval	The report states “The land must be returned to a condition that is at least as good as existed prior to the project...” and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper restoration and mitigation is reached. As a land owner M-NCPPC will determine the restoration of temporary use areas.
195.	Montgomery Parks	DEIS, App. F Page 10 Section 1.2.7 Draft Section 4(f) Eval	Parks will require additional avoidance and minimization efforts and specific parkland mitigation at a greater or equal value for each property before agreeing to any de minimis impact. This statement applies for all parkland affected by the project.
196.	Montgomery Parks	DEIS, App. F Page 11 Section 1.2.8 Draft Section 4(f) Eval	M-NCPPC, as the designated applicant to NCPC for any proposed changes to parks funded by the Capper-Cramton Act, will need a complete understanding and commitment from SHA regarding parkland impacts and mitigation before approval from NCPC is sought for the affected parks. This will include, but is not limited to, extensive impact minimization, adequate stormwater management controls, on-site restoration, on-site

Comment No.	M-NCPPC Department	Reference	Technical Comment
			mitigation, off- site mitigation, and parkland dedication. At the appropriate time Parks would expect SHA to provide necessary information for any potential submission to NCPC.
197.	Montgomery Parks	DEIS- App. F Page 18 Section 2, Draft Section 4(f) Eval	Parks expects further development of mitigation plans for parkland before the FEIS and ROD. In addition, a process for modifying the LOD and mitigation plans must be produced as part of the ROD and FEIS to ensure park resources are adequately protected during advanced design.
198.	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 220+00 L – from River Road to STA 215+00 consider stream improvements and stabilization. All outfalls should have stable tie-in to Cabin John Creek and consist of plunge pools and step pools.
199.	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- M-NCPPC appreciates that statement that the stream improvements where Cabin John creek flows under highway “may be considered during final design,” however incorporation of these improvements should occur before final design as this area is clearly within the LOD of the project and should be designed in coordination with the roadway design.
200.	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- Ensure fish passage under Cabin John Parkway for Booze Creek. MCDEP is currently completing a stream restoration upstream of Cabin John Parkway and ensuring safe fish passage is critical at this location.
201.	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- restrict LOD to ROW along south side of Cabin John Parkway. Parks looks forward to dressing needed LOD changes as part of the FEIS development.

Comment No.	M-NCPPC Department	Reference	Technical Comment
202.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 491+50 L - Currently outfall is stable. LOD provided is in Rock Creek for culvert replacement. Include bank stabilization of Rock Creek on right bank and stable outfall transition. Repaired and replaced culvert should have a natural channel bottom and promote fish passage. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
203.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 489+00 L - Outfall not shown on SHA maps. Will need to be labeled, addressed a stable transition into Rock Creek accommodated in the design and LOD.
204.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 493+50 L - Expand LOD to include enhancing outfall to Rock Creek. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
205.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - The right bank of Rock Creek will need to be stabilize and improved from 482+00 to 493+00. LOD expansion to include this work is required. If retaining wall is replaced, additional LOD and stream and bank restoration will be required. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
206.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 490+00 R - Restore trail after project. Keep trail open or provide detour during construction. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.
207.	Montgomery Parks	DEIS, App. F Page 46	Elmhirst STA 489+50 - M-NCPPC previously asked for MDOT SHA to provide justification for the need for a new pipe and impacts to stream. New culvert should have a natural channel bottom and promote fish passage.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
208.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R - Include stream restoration with in-stream structures and stream stabilization.
209.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R 300ft - Expand LOD for stream and trail work. Coordinate LOD and design with Parks. This work is required to make the resources whole.
210.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Address trash being washed down from roadway, clean up during construction and add trash racks to all inlets. M-NCPPC appreciates the response that MDOT SHA will coordinate with M-NCPPC on this issue. Commitment from MDOT SHA to provide maximum water quality protections at all inlets is requested.
211.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Stabilize bank in this reach due to close proximity to highway. If MDOT SHA does not want to include the bank stabilization in this location, extensive documentation of how the bank and stream will not be impacted by the proposed work is required.
212.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 484+50 L - Need to stabilize existing outfall tie in to Rock Creek. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
213.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 L 200ft - In conjunction with outfall add riffle over WSSC crossing and stream structure at bend, stabilize bank.
214.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 - Daylight outfall earlier, do not pipe directly into Rock Creek. Expand LOD to allow for the day lighting of this outfall pipe. This pipe is already shown to be fixed by the project, Parks is requesting a common sense change in LOD to maximize the benefit of fixing this outfall. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
215.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 472+00 L - Restore tributary with appropriate stream structures and stabilize bank with tie in to Rock Creek. Expand LOD to include tie in to mainstem.
216.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 463+00 L - Previous comment: Unclear why this LOD bump out is so large here. Need justification to approve Site visit and /or details about drainage facility. MDOT SHA response: This LOD bump out is to accommodate an augmenting existing drainage facility. This concern will be discussed as part of the ongoing coordination process and will be addressed in the Final Section 4(f) evaluation. M-NCPPC requests a site visit to discuss this LOD before the FEIS.
217.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 462+00 L -Stabilize outfall with plunge pool and fix degraded area. Catch trash and road grit. Limit LOD in high quality area. M-NCPPC requests a site visit to discuss this LOD before the FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
218.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 458+00 L- Outfall degraded. Concrete flume with significant road grit and trash. Remove concrete, stabilize and install grit separator. M-NCPPC requests a site visit to discuss this LOD before the FEIS. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
219.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 466+00 L - Potentially cut back pipes and day light culvert, install structure to stabilize and tie in to Rock Creek. Expand LOD to include stream tie in. M-NCPPC requests a site visit to discuss this LOD before the FEIS.
220.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock STA 495+00 L - from station 495+00 to 500+00 tighten LOD and implement measure to protect existing forest resources outside LOD, especially trees on the stream bank. Replanting and forest enhancement will be required. M-NCPPC requests a site visit to discuss this LOD before the FEIS
221.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L- Justify LOD here, should tighten LOD to the ROW. M-NCPPC requests a site visit to discuss this LOD before the FEIS
222.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L - Clogged outfall. Restore with plunge pool and remove adjacent phragmites australis. This work must be included as part of the roadway project. Adding more drainage to already degraded outfalls without improving the function is inadequate.
223.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9	Rock Creek STA 505+00 L - Add plunge pool, include channel tie in into the existing floodplain. Expand LOD for work. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
224.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 510+10 - expand LOD from outfall to Rock Creek and include outfall/stream restoration. Floodplain drainage into outfall/tributary should be restored to reduce incision and enhance floodplain hydrology.
225.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 517+50 L – expand LOD from culvert/outfall to confluence with Rock Creek. Incorporate stream and bank restoration. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
226.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 529+00 L - Potential SWM location. If grade works stage and stockpile then add SWM to drain into Tributary. Expand LOD. Control existing invasive plants as part of site restoration. MNCPPC understands the topography may not be suitable, but we encourage all creative solutions to SWM treatment.
227.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 537+50 L - protect existing high quality wetland between toe of slope and Rock Creek.
228.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 558+00 L - failed CMP culvert. M-NCPPC appreciates the LOD extending 45’ beyond outfall. Parks requests a site visit to review LOD before FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	
229.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 563+50 R - Potential SWM location, linear facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
230.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 566+50 L - Facility Impacted. 565+00L to 599+00L include Rock Creek and 30 ft to the N/W of Rock Creek in LOD to incorporate stream improvements and bank stabilization. This area has 8-10 ft high vertical banks and is degraded from the existing transportation facility. Parks requests a site visit to review LOD before FEIS.
	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 568+25 R - Highly value resource. Construct new pipe/channel/headwall to ensure that existing wetland water elevations are maintained or enhanced.
231.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 575+50 L - from STA 565+00 to 590+00 Rock Creek needs to be in the LOD to allow for required stabilization and improvements. The reality of having the proposed LOD so close to the bank as currently shown will impact this high value resource. Parks expects the LOD in this area to include Rock Creek and that the design will include stream restoration to enhance aquatic habitat, improve water quality, and provide bank stability. As stated to the project team previously, Parks' preference in this area would be to shift any necessary impacts resulting from widening to the south where environmental resources are of a lower quality.
232.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 578+00 L 200 ft - Potential stream restoration. Address incised tributary, raise stream bed to promote floodplain activity.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	
233.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 580+80 L - Outfall degraded. Address outfall drainage channel. This outfall and channel need to be included within the LOD. MNCPPC requests a field visit before the FEIS.
234.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 585+30 L - Potential floodplain tree planting area.
235.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 L 300ft - address incision in tributary on left bank of Rock Creek. Raise tributary bed. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
236.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 - Incorporate improvements to Rock Creek under the beltway. Expand LOD to include Rock Creek stream to Jones Mill Road Bridge. Rock Creek will be directly impacted by the construction of roadway infrastructure, part of the project must include improvements to the creek in this area.
237.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 590+00 - Facility impacted, keep trail open during construction, improve trail under beltway per appropriate standards for bicycle and pedestrian safety. Previous MDOT SHA reply to this comment stated this area might be considered for mitigation. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.

Comment No.	M-NCPPC Department	Reference	Technical Comment
238.	Montgomery Parks	DEIS, App. F Page 58 Section 2.1.15 Draft Section 4(f) Eval	Noise abatement measures in the form of noise walls are essential around parkland in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in this Montgomery Parks' priority location. In addition, park improvements, such as renovated basketball court, playground, and other improvements in order to make the park functional again given the roadway impacts must be included at this location.
239.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Potential SWM location, north of Beltway, east of Sligo Creek Parkway. There are two outfalls that flow into this area. Parks suggests investigating this area for SWM. DOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
240.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Outfall degraded. The outfall that flows onto parkland should flow into a SWM facility (referenced above) and should have a proper plunge pool. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
241.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 691+00 L - Existing outfall channel from Beltway and Sienna School parking lot should be converted into enhanced outfall/SWM facility. STA 689+00 to STA 692+00. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
242.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 688+50 R – Replace existing concrete flume with enhanced outfall with step pools. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

Comment No.	M-NCPPC Department	Reference	Technical Comment
243.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 L – Investigate use of parkland north of Beltway, west of Sligo Creek Parkway, and south of Forest Glen Road for Potential SWM location. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
244.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 686+00 L - Outfall degraded. Extend LOD to include 30 feet beyond bank of existing drainage outfall. Construct enhanced outfall or linear SWM facility. STA 686+00 to 687+00. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
245.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+50 L - Fix existing erosion gully over culvert. This is within the ROW. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
246.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential stream restoration. SHA needs to install grade control structures upstream of culvert to help maintain flow through culvert. Right side of culvert has filled in and should be cleared out by SHA. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
247.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential SWM location, there is an existing SWM facility, but it does not appear to be a formal facility that is maintained by any agency. This area could be used for a SWM facility built by SHA. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
248.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 682+50 L - Outfall degraded. Install enhanced outfall to transition water down the slope to trail culvert. MNCPPC appreciates the commitment from MDOT SHA stating that "This outfall channel is located within the LOD. If discharges to the outfall are increased, the channel will be stabilized."
249.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 683+00 - Provide trail detour or maintain trail to be open during all phases of construction.
250.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 R - Install instream grade control below culvert, ensure fish passage through culvert.
251.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 R- previous M-NCPPC comment: The SWM Facility will be impacted by the proposed road work, the Flow splitter is being impacted and Will need to be reconstructed. Other work to enhance the existing SWM facility should be investigated. MDOT SHA response: A retaining wall is used in this location to minimize impacts. Impacts to the flow splitter appear to be temporary to allow for construction. MDOT SHA will continue to coordinate with M-NCPPC and may consider expanding this SWM facility. MDOT SHA should consider any and all SWM improvements that can be included in the project and this locations represents a good location to look at expanding SWM capacity.
252.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+00 R- M-NCPPC requests a site visit before the FEIS for this location to review potential impacts to the stream and existing SWM facility.

Comment No.	M-NCPPC Department	Reference	Technical Comment
253.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	STA 700+00 – M-NCPPC requires coordination with the Montgomery County Revenue Authority to review proposed impacts and improvements to the Sligo Creek Golf Course.
254.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community
255.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L - Parks is supportive of further investigation of Potential SWM location on Sligo Creek Golf Course, to include repairs to adjacent parkland from the existing untreated highway runoff. Work will require an expanded LOD for further stabilization of the existing outfall stream channel and appropriate stable connections from the channel to any new stormwater infrastructure.
256.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
257.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community.
258.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14	STA 707+00 L - Parks is willing to investigate Potential SWM location on parkland MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
259.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
260.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 743+50 R - Potential SWM location on parkland. Parks would like to investigate constructing a SWM facility adjacent to the sound wall. This area is the headwaters of Long Branch and all measure to improve water quality should be implemented. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
261.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 R - Outfall degraded, incorporate plunge pool and level spreader to maintain braided surface flow of stream system. This area is the headwaters of Long Branch and all measures to improve water quality should be implemented. Although outfall is currently stable, the proposed roadway work will impact his outfall and increase flows to this outfall, necessitating improvements.
262.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 744+00 R – Construct rectangular playing field on parkland to park standard as part of park reconstruction.
263.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section	Indian Springs STA 753+50 R - Ensure no impacts to tennis court.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		4(f) Eval	
264.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Facility impacted, reconstruction and improvement of basketball court will be required.
265.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Noise abatement measures in the form of noise walls are essential around natural resource areas and local parks in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from undue anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls at this priority location.
266.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 - Maximize SWM in this location in general, this is the headwaters of Long Branch. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
267.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 757+00 - Extend LOD to Marshall Ave to improve channel. Channel improvements should be done in conjunction with SWM facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
268.	Montgomery Parks	DEIS, F Page 74 Section 2.1.23	Northwest Branch STA 807+00 R – investigate potential SWM location here, Parks would consider providing parkland for a SWM facility.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
269.	Montgomery Parks	DEIS, App. F Page 74 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – Environmentally friendly slope stabilization and replanting must be coordinated with Parks for the entire LOD around NW Branch to ensure adequate protection of steep slopes. This park is a Best Natural Area and special consideration and protection is required.
270.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3685+00 R 575ft - along Tuckerman Lane outfall is degraded, outfall has filled in. If the area remains in LOD, restore outfall and channel. Please confirm if the outfall will be inspected by MDOT SHA.
271.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+50 R - along Tuckerman Lane outfall, incorporate plunge pool and stable tie in to Cabin John Creek.
272.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - along Tuckerman Ln Area designated for SWM contains thick spicebush understory and numerous large tulip poplar and sycamore trees. The area is in the floodplain of Old Farm Creek and adjacent to a wetland, therefore the area is not suitable for SWM. The outfalls in the area should be enhanced with plunge pools and step pools.
273.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - If the culvert for Old Farm Creek is lengthened or replaced, stream restoration downstream of the culvert should occur for at least 220ft. LOD should be expanded to include this section of stream.

Comment No.	M-NCPPC Department	Reference	Technical Comment
	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3684+00 R - Area designated for SWM would be difficult to access due to retaining wall, with steep slope and trees.
274.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3639+50 R - Area designated for SWM has numerous mature trees, understory of spice bush and large sycamores, resources critical to the area's designation as a Parks Biodiversity Area. SWM location will need to be revised. M-NCPPC agrees that there are limited locations for SWM. We are ready to work with MDOT SHA to revise the proposed SWM location. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing the SWM in a way that fits in with the resources at the site. This area is designated as a biodiversity area due to the high-quality forest resources. As the SWM is proposed, the impacts to the forest interior are too great to sustain. Revising the footprint of the SWM to be more linear along the highway, generally extending no further than 25' into the forest from the existing natural surface trail, would greatly reduce forest impacts and provide ample room for SWM. M-NCPPC acknowledges the existence of a wetland that the proposed SWM is trying to avoid, however, by avoiding any wetland impacts, the overall degradation to the natural environment is greater in this location due to the forest interior impacts and the relatively low quality of the existing wetland. In fact, the wetland hydrology appears to be mainly provided from an untreated highway outfall and the hydrology may be impacted by the creation of any SWM in this area. M-NCPPC recommends designing the SWM in a way that may impact a portion of the existing wetland footprint (which is PEM wetland along the leading edge next to the highway), but ultimately enhancing the wetland by providing a source of treated water as one the main hydrological inputs.
275.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3640+00 R - degraded outfall channel with headcut will need to be restored. This outfall is severely incised to the confluence with Cabin John Creek and must be restored along the entire length to be able to sustainably handle the proposed increased flows from the highway improvements. In addition, the proposed SWM work adjacent to the channel will also work in conjunction with a restored outfall channel. Raising the stream bed elevation of this channel will positively influence the hydrology of the adjacent wetland area, negating some of the possible impacts to the wetland by the M-NCPPC proposed SWM location (see comment above).
276.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3635+00 R - to 3640+00 R The natural surface trail must be re-routed through or around any proposed SWM facility in accordance with M-NCPPC trail guidelines and specifications.

Comment No.	M-NCPPC Department	Reference	Technical Comment
277.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3628+00 L - suggested location for SWM, avoid mainstem stream. Degraded outfall. Although the area is limited, every effort should be made to provide onsite treatment of SWM. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing SWM in this location as there is existing highway drainage and favorable topography. M-NCPPC can justify the small impact to the forest edge for the benefit of stormwater treatment in this important watershed.
278.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L - restore degraded outfall from roadway. As observed during the site visit with SHA representatives on 10/28/20 M-NCPPC, there is an existing steep, severely eroded outfall (may be surface drainage) that will need to be restored.
279.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L – As discussed during the site visit with SHA representatives on 10/28/20 M-NCPPC does not see a need for culvert capacity augmentation at this location. Any upstream alterations to the 100 yr floodplain will occur solely on M-NCPPC property and will not affect any built infrastructure. The installation of an augmented culvert will have unjustified impacts for little to no resource benefit. The existing culvert extension should be limited as much as possible since the stream is very stable on both the upstream and downstream ends of this project. M-NCPPC will require limited stream work (cross channel grade control, stone toe, etc.) to maintain the stable nature of the stream at both ends of the culvert.
280.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 466+50 R - Potential SWM location. Area receives runoff from outfall, degraded area with invasive plants. Treat invasive species if selected for SWM. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
281.	Montgomery Parks	App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+00 - Tie existing stream work into outfall as directed by Parks. Current LOD is appropriate for culvert work, but would need to be larger for potential SWM facilities. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

Comment No.	M-NCPPC Department	Reference	Technical Comment
282.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+10 R - Significant tree. There is a large sycamore within the LOD that should be protected and preserved.
283.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 468+50 R - Potential SWM location. There is a small clearing, Parks suggests investigating SWM in this location MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
284.	Montgomery Parks	DEIS- App. F Page 149 Section 3.1 Draft Section 4(f) Eval	Parks requests a meeting to go through the comments that concern avoidance and minimization of parkland impacts. There are numerous instances where an LOD expansion is required to appropriately address resource impacts, protection, and restoration. Alternatively, there are locations where further avoidance and minimization need to be considered to reduce the LOO. In addition, Parks would like to discuss SWM locations on parkland that are described in our comments. We look forward to the opportunity to collaboratively address each of these issues. As M-NCPPC has learned with many other projects, including the Purple Line, creating a "right sized" LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.
285.	Montgomery Parks	DEIS-Appendix K – Public Phase 1 Mitigation Design Plans – AN-6 Paint Branch Fish Passage	There are documented "Full Blockages" to fish migration upstream of Floral Drive on the FDA White Oak Research Campus, as identified in an August 2020 MWCOG Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account will significantly limit the estimated 5,258 LF of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch SPA, near Briggs Chaney Road.

Comment No.	M-NCPPC Department	Reference	Technical Comment
286.	Montgomery Parks	DEIS- Appx L 2.3.4 page 32	M-NCPPC appreciates the commitment to minimizing impacts. In order to effectively implement the second tier of avoidance and minimization, M-NCPPC requests that MDOT SHA produce a detailed process as part of the ROD that outlines how LOD modification will occur to ensure that actual resource protection and enhancement can be achieved.
287.	Montgomery Parks	DEIS-App L NRTR Page 38 Section 2.3.4	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will ensure that SHA is unable to adequately address SWM needs and aquatic resource protection and enhancement. Parks does not agree that the “LOD would not need to be enlarged” because as Parks has stated some of the SWM proposed is not feasible and other opportunities will need to be considered.
288.	Montgomery Parks	DEIS, App L NRTR Page 51 Section 2.4.2	Report acknowledges that Rock Creek was already relocated for beltway construction. SHA must commit to providing a net benefit to Rock Creek by expanding the LOD as directed by Parks to provide bank stabilization, bank restoration, in stream structures, and habitat creation. Two locations where Parks expects this to occur are near Cedar Lane and Jones Mill Rd. The LOD must be appropriate to restore and protect resources directly affected by the roadway project as part of the roadway design and construction and not as mitigation. The LOD directly on a stream bank is not considered minimized as it relates to Section 4(f) because the location of the LOD has adverse impacts not currently being accounted for.
289.	Montgomery Parks	DEIS, App L NRTR Page 83 Section 2.4.4	Report states. that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
290.	Montgomery Parks	DEIS, App L NRTR Page 145 Section 2.9.3	This project has the opportunity to correct an existing impactful situation and these culverts won’t be able to be addressed in the future. All culverts should be evaluated for several factors, including stability and habitat, and the project team should identify those and plan for replacement following modern guidelines and best practices.
291.	Montgomery Parks	DEIS, App L NRTR Page 146	SHA must ensure that the extension and replacement of culverts results in improving aquatic organism passage, not a decrease. MNCPPC is the owner of the majority of aquatic resources affected by the proposed culvert extensions, additions, and replacement, and the potential degradation of aquatic habitat and decrease in safe passage is considered a detrimental impact to Park resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.9.3	
292.	Montgomery Parks	DEIS, App L NRTR Page 148 Section 2.9.3	Parks will require the removal of fish from dewatered work areas to limit fish mortality. The removal must be performed by staff certified through the Maryland Biological Stream Survey program. In addition, all best practices for ecological construction to limit impacts to aquatic biota must occur.
293.	Montgomery Parks	DEIS, Appendix 4, pg 125	Station 3660+00 L Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends assessing the suitability for expanding SWM treatment on the Old Farm NCA (at the end of Tilden Ln) or designing additional SWM on the Old Farm NCA. The SWM should be kept on the highway side of the parcel with limited encroachment into the existing open space. M-NCPPC is interested in providing as many opportunities as possible for SWM and appreciates SHA's efforts in evaluating this area.
294.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County • Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<ul style="list-style-type: none"> • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities • High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 • Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy • Special Trout Management Areas as noted in COMAR Title 08 • Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p>
295.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.
296.	Prince George's Planning	DEIS, General Public Involvement and Agency Involvement Technical Report	The In-Person Public Meetings held on September 1, 2020 and September 10, 2020 had limited access for Deaf/Hard of Hearing community members. Limited in person access due to Covid and no livestream allowed for telephone access only which was burdensome if one does not have a landline or has to use a Teletype to communicate.
297.	Prince George's Planning	DEIS, Conceptual Mitigation Plan Comments - General	Can the Landover Mall property be used for mitigation for Parks and Reforestation?

Comment No.	M-NCPPC Department	Reference	Technical Comment
298.	Prince George's Planning	DEIS, Indirect and Cumulative Effects Report Figure 1-2	Figure does not fit on page in hard copy form. Please revise.
299.	Prince George's Planning	DEIS, Compensatory Mitigation Plan Report	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project
300.	Prince George's Planning	DEIS, Traffic Technical Report Comments	Insufficient Analysis of the ICC Alternative. MD 200 Diversion Alternative should be studied in more detail with various modeling assumptions including with or without the I-95 segment.
301.	Prince George's Planning	Purpose and Need Comments – General	Reiterate the MNCPPC Non-Concurrence with the ARDS of this project
302.	Prince George's Planning	DEIS-SWM	Find ARDS and PN comments on SWM locations that flood.
303.	Prince George's Planning	DEIS-Environmental Justice Technical Report Comments	Incorporate Social Justice concerns into analysis and mitigation requirements.
304.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 23	Plate 23A – 1200- LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Park.

Comment No.	M-NCPPC Department	Reference	Technical Comment
305.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12SS-PFO – LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer imp act in Cherry Hill Road State Park.
306.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ- LOD is unrealistic. Please expand the LOD it includes impacts to wetlands and waterways.
307.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ – why are the proposed Stormwater Management Facilities not shown in this location?
308.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12OO_1 – a foot path utilized by Cherry Hill Road State Park users is located downstream in line with Cell 4 of the 4-cell culvert. What is the plan for this culvert and how will the project design prevent the downstream erosion of this foot path?
309.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – what is the proposed access for the proposed Stormwater Management Facility?
310.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A-Henry A Johnson Park – culvert located at Station 1425+01 appears undersized and damaged. Please provide culvert detail.
311.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – existing Noise Barrier is not providing adequate noise abatement for park users. Location has significant roadway noise during off-peak hours. Relocating the Noise Barriers to the proposed LOD will impact the quality of the park use.
312.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – 7C-PEM. There appears to be a wetland just beyond the LOD at 7C-PEM in the swale at the basketball court. Was this location field delineated? There was no wetland flagging present at the time of the field visit in August 2020.
313.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – why is the proposed Stormwater Management Facility for this location not shown on the impact plates?

Comment No.	M-NCPPC Department	Reference	Technical Comment
314.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 54	Plate 54A – Andrews Manor Park – how will construction and maintenance access be provided to this site and facilities? Currently, the only access is from the shoulder on the Capital Beltway.

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November 6, 2020

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Re: Public Notice PN 20-42 – MDOT SHA I-495 I-270 Managed Lanes Study
USACE Application Number NAB-2018-02152
MDE Tracking Numbers 20-NT-0114 / 202060659 / AI 168251

Dear Messrs. Dinne and Hurt:

On behalf of our client, the Maryland-National Capital Park and Planning Commission (“M-NCPPC” or “the Commission”), we submit these comments on the Maryland Department of Transportation State Highway Administration’s (“MDOT SHA”) joint federal/state permit application (“JPA”) to the U.S. Army Corps of Engineers (“Corps”) and the Maryland Department of Environment (“MDE”) for the alteration of a floodplain waterway tidal or nontidal wetland in connection with the I-495 and I-270 Managed Lanes Study (the “Project”). As discussed below, the Commission objects to these permits because MDOT SHA has failed to consider less environmentally damaging practicable alternatives for the Project that would have fewer impacts on parkland and aquatic resources.

I. Introduction

A. Maryland-National Capital Park and Planning Commission

The Maryland General Assembly created the M-NCPPC in 1927 to plan for the orderly development, acquisition and maintenance of parkland and open space, and to protect natural

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Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 2

resources in Prince George’s and Montgomery Counties.¹ Since that time, M-NCPPC has acquired several hundred parks in the two counties. Twenty-five of those parks will be directly impacted by each of the Project’s Build Alternatives, and Congress has specially designated M-NCPPC to protect ten of those parks that were acquired with federal funds under the Capper-Crampton Act (“CCA”).² MDOT SHA and the Federal Highway Administration (“FHWA”) (collectively the “Lead Agencies”) engaged M-NCPPC as a Cooperating Agency under the National Environmental Policy Act (“NEPA”) to provide input on the Project alternatives based on M-NCPPC’s integral role as a planning agency and steward of the natural and built environments. To fulfill its role as a Cooperating Agency, M-NCPPC must provide comments regarding matters under its jurisdiction. As important, M-NCPPC must also object to the granting of permits for activities that are likely to impact parkland and waterways when there are practicable alternatives that would have no or fewer impacts.³

B. Project Background

The stated purpose of the Project is to provide travel demand management solution(s) that address congestion, improve trip reliability on I-495 and I-270 within the Project limits, and enhance existing and planned multimodal mobility. The stated needs for the Project are:

¹ The Maryland Court of Appeals has outlined M-NCPPC’s regional functions as follows:

The [M-NCPPC], as its name suggests, administers parks, public recreation, and, in conjunction with the governments of Prince George’s and Montgomery counties..., participates in the planning of development within the [Maryland-Washington Regional District]. Among other things, [a Maryland statute] authorizes the MNCPPC to: (1) acquire property for parks, forests, roads, and other public spaces; (2) rename streets and highways and number and renumber houses within the district to fix mistakes, remove confusion, and establish uniformity; (3) acquire, improve, and manage land for flood control purposes; (4) establish road grades in Montgomery County; and, (5) recommend amendments to the zoning laws and subdivision regulations.

Cty. Council of Prince George’s Cty. v. Zimmer Dev. Co., 444 Md. 490, 526–27, 120 A.3d 677, 699 (2015) (internal citations omitted).

² Act of May 29, 1930 (46 Stat. 482), as amended by the Act of August 8, 1946 (60 Stat. 960), Section 3 of the Act of July 19, 1952 (66 Stat. 781, 791), and the Act of August 21, 1958 (72 Stat. 705).

³ For the sake of argument only, this letter assumes that the Lead Agencies have properly propounded a Purpose and Need Statement, set of Alternatives Retained for Detailed Study (“ARDS”) and Draft Environmental Impact Statement (“DEIS”) for the Project that are lawful and compliant under NEPA. For multiple reasons to be discussed further in the context of the Commission’s comments on the DEIS, however, the Commission respectfully disputes any such assumption and, accordingly, expressly reserves its rights under NEPA and any related statutes.



Jack Dinne
Steve Hurt
November 6, 2020
Page 3

accommodating existing traffic and long-term traffic growth; enhancing trip reliability; providing additional roadway travel choices; enhancing homeland security; and facilitating the movement of goods and the ability of businesses to provide services. The Project limits are: I-495 from south of the George Washington Memorial Parkway in Virginia, including improvements to the American Legion Bridge over the Potomac River, to west of MD 5 in Maryland and along I-270 from I-495 to north of I-370, including the east and west I-270 spurs.⁴

The Lead Agencies initially screened sixteen Project alternatives. They retained six Build Alternatives for detailed study and then substituted one of the Build Alternatives with a modified version of a retained Build Alternative. The Lead Agencies studied the six Build Alternatives in the Draft Environmental Impact Statement (“DEIS”), but have not identified a Preferred Alternative. They do not plan to identify a preferred alternative until they release the Final Environmental Impact Statement (“FEIS”).⁵

From Fall 2018 to Spring 2019, when the Lead Agencies were undertaking the alternatives analysis and environmental technical analysis, stakeholders, including M-NCPPC and the National Capital Planning Commission (“NCPC”), asked the Lead Agencies to evaluate an alternative that would divert traffic to MD 200 (also known as the Intercountry Connector or ICC) between I-270 and I-95. M-NCPPC proposed this alternative as it would avoid or reduce impacts to significant, regulated resources and mitigate the need for residential relocations. MDOT SHA and FHWA briefly considered this MD 200 Diversion Alternative, which would route drivers along MD 200 instead of the top side of I-495 between I-270 and I-95. The MD 200 Diversion Alternative assumed no widening or new capacity on the top side of I-495 between I-270 and I-95, but did consider other potential less-impactful improvements to relieve congestion (known as Transportation System Management/Transportation Demand Management, or TSM/TDM, options), such as ramp metering and hard shoulder running. MDOT SHA rejected this alternative and did not retain it for detailed study on grounds that the alternative would not provide sufficient traffic relief benefits many years down the road and was not financially viable.

At the August 20, 2020 public hearing on the JPA, Casey Anderson, Chair of the Commission, raised concerns that MDOT SHA failed to consider the MD 200 Diversion Alternative and transit alternatives in the DEIS despite the fact that those alternatives are reasonable and would

⁴ JPA Public Notice at pp. 3-4; DEIS at pp. 1-1, 1-4.

⁵ DEIS at p. ES-4.



Jack Dinne
Steve Hurt
November 6, 2020
Page 4

have fewer environmental impacts than the alternatives studied in the DEIS. He also noted that MDOT SHA understated the limits of disturbance for the alternatives it studied.

II. Discussion

A. **The Corps and MDE should deny the requested permits because MDOT SHA has failed to substantively consider practicable alternatives that have fewer environmental impacts.**

Section 404 of the Clean Water Act prohibits the discharge of dredged or fill material if: (1) a practicable alternative exists that is less damaging to the aquatic environment; or (2) the nation’s waters would be significantly degraded by the discharge.⁶ To obtain a section 404 permit, the applicant must show that (1) it has taken all reasonable steps to avoid impacts to wetlands, streams and other aquatic resources; (2) impacts that cannot be avoided have been minimized; and (3) compensation (i.e., mitigation) will be provided for any remaining unavoidable impacts. Regulations implementing section 404 require the Corps to ensure that the proposed fill material will not cause any significantly adverse effects to human health or welfare; aquatic life, and aquatic ecosystems; or recreational, aesthetic or economic values.⁷

The Section 404(b)(1) Guidelines require that the Corps determine that: (1) the project being undertaken is the least environmentally damaging practicable alternative; (2) the project will not cause or contribute to the violation of Federal and State laws governing protection of the natural and built environment; (3) the project will not cause a degradation of the waters of the United States; and (4) all appropriate and practicable steps have been taken to minimize the adverse impacts of the project to wetlands and other waters of the United States.⁸

The Guidelines prohibit the issuance of permits where there “is a practicable alternative to the proposed discharge that would have a less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant environmental consequences.”⁹ To be

⁶ 33 U.S.C. § 1344.

⁷ 40 C.F.R. § 230.10(c).

⁸ *Id.*

⁹ *Id.* § 230.10(a); 33 C.F.R. § 320.4(a)(2)(ii).

Akin Gump

STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 5

“practicable,” an alternative must be “available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.”¹⁰

For projects that are not water-dependent, it is presumed that there are practicable alternatives to locating the project in an area that will impact aquatic resources.¹¹ In such circumstances, the permit applicant must rebut the presumption by “clearly demonstrat[ing]” that a practicable alternative is not available.¹²

Maryland law spells out similar preconditions for nontidal wetland permits. MDE may not issue a nontidal wetland permit for a regulated activity unless it finds that the applicant has demonstrated that the regulated activity:

- (1) (i) Is water dependent and requires access to the nontidal wetland as a central element of its basic function; or (ii) Is not water dependent and has no practicable alternative;
- (2) Will minimize alteration or impairment of the nontidal wetland, including existing topography, vegetation, fish and wildlife resources, and hydrological conditions;
- (3) Will not cause or contribute to a degradation of groundwaters or surface waters; and
- (4) Is consistent with any comprehensive management plan that may be developed in accordance with § 5-908 of this subtitle.¹³

Furthermore, MDOT SHA must show that “practicable alternatives have been analyzed and that the regulated activity has no practicable alternative.”¹⁴ In assessing whether a practicable alternative to a proposed project exists, MDE considers:

¹⁰ 40 C.F.R. § 230.10(a)(2).
¹¹ *Id.* § 230.10(a)(3); Guidelines for Specification of Disposal Sites for Dredged or Fill Material, 45 Fed. Reg. 85,336, 85,339 (Dec. 24, 1980).
¹² 40 C.F.R. § 230.10(a)(3).
¹³ Md. Code, Environment § 5-907(a).
¹⁴ *Id.* § 5-907(b).

Akin Gump

STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 6

(1) whether the basic project purpose cannot be reasonably accomplished utilizing one or more other sites in the same general area that would avoid or result in less adverse impact on nontidal wetlands;

(2) whether a reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs that would result in less adverse impact on the nontidal wetland would not accomplish the basic purpose of the project;

(3) in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as inadequate zoning, infrastructure, or parcel size, whether the applicant has made reasonable attempts to remove or accommodate these constraints; and

(4) the economic value of the proposed regulated activity in meeting a demonstrated public need in the area and the ecological and economic value associated with the nontidal wetland.¹⁵

As an initial matter, the Project is not water-dependent, and MDOT SHA has failed to rebut the presumption that there is a practicable alternative with fewer impacts. The preamble to the Corps’ Section 404 Guidelines describes non-water-dependent discharges as “those associated with activities which do not require access or proximity to or siting within the special aquatic site to fulfill their basic purpose.”¹⁶ The preamble offers the example of a project that requires the deposit of “fill to create a restaurant site,” because “restaurants do not need to be in wetlands to fulfill their basic purpose of feeding people.”¹⁷ The preamble further notes regarding the restaurant that “it is reasonable to assume there will generally be a practicable site available upland or in a less vulnerable part of the aquatic ecosystem.”¹⁸ Furthermore, “the mere fact that an alternative may cost somewhat more does not necessarily mean it is not practicable.”¹⁹ The

¹⁵ *Id.*
¹⁶ Guidelines for Specification of Disposal Sites for Dredged or Fill Material, 45 Fed. Reg. 85,336, 85,339 (Dec. 24, 1980).
¹⁷ *Id.*
¹⁸ *Id.*
¹⁹ *Id.*

Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 7

presumption “should have the effect of forcing a hard look at the feasibility of using environmentally preferable sites.”²⁰

The Lead Agencies are fully aware of this high bar. “The alternatives test is applied more rigorously (i.e., alternatives are presumed to exist) for projects that are proposed to be in special aquatic sites when the project is not water dependent.”²¹ Yet while the JPA indicates that the Project is not water-dependent,²² the Lead Agencies make no attempt to rebut the presumption that practicable alternatives with fewer impacts to aquatic resources are available, even while admitting that the MD 200 Diversion Alternative is “in a less vulnerable part of the aquatic ecosystem.”²³

More broadly, the Lead Agencies studied six Build Alternatives in the DEIS, all of which would have substantial direct impacts to streams, wetlands, and floodplains. While Alternative 9-M would have the smallest footprint of the Build Alternatives and, therefore, would impact the least amount of wetland acreage and linear feet of stream, the impacts are still significant.

The Lead Agencies should have studied the MD 200 Diversion Alternative to the same extent as they are studying the Alternatives Retained for Detailed Study, which, as they acknowledged in the DEIS, “would avoid environmental resources and property relocations within” the topside of I-495.²⁴ This area is the most environmentally sensitive area in the Study, and includes stream valley parks acquired under the CCA, which M-NCPPC is required to protect in perpetuity.

The Lead Agencies dismissed the MD 200 Diversion Alternative after inexplicably pairing it with improvements to I-95 and then noting that the alternative would cause some environmental impacts (i.e., to Paint Branch, Paint Branch Park, Little Paint Branch, and Little Paint Branch Park). Not only are these impacts not “significant”, compared to the impacts along the topside of I-495 under the Build Alternatives, but the proposed pairing was not necessary since the MD 200 Diversion Alternative alone would satisfy the Project’s purpose and need and would have significantly fewer, if any environmental impacts. The Corps and MDE should not advance the requested permits in light of the impacts on the Build Alternatives unless and until MDOT SHA

²⁰ *Id.*

²¹ DEIS, Appendix B, at p. 95.

²² JPA, Response to Question 6.

²³ *See id.*

²⁴ DEIS, at p. 2-22.

Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 8

clearly rebuts the presumption that there are alternatives available which would have fewer impacts on aquatic resources.

Likewise, Alternative 15, a dedicated bus managed lane network, would have fewer impacts on aquatic resources than the Build Alternatives and the Lead Agencies should have considered it. The LOD for the bus lane would be relatively small because the alternative would use the existing roadway (as opposed to the other transit alternatives) and add only one lane in each direction. And, as the DEIS acknowledges, “[a] dedicated managed bus lane would result in higher operating speeds than a bus traveling in a [general purpose] lane.” Despite these recognized benefits, the lead agencies concluded the alternative did not meet other aspects of Purpose and Need and elected not to retain it for further study. Eliminating this alternative from detailed study was not reasonable without fully evaluating funding options in light of the fact that it would cause substantially less harm to aquatic resources.

B. Work performed under the requested permits would require use of the Commission’s CCA properties, which MDOT SHA cannot authorize.

As discussed above, work performed under the requested permits and authorizations would necessitate use of certain CCA properties administered by M-NCPPC.²⁵ MDOT SHA does not have the authority to provide any assurance in its agreement with the public private partnership (“P3”) contractor that M-NCPPC’s CCA properties will be available for the Project. In fact, as NCPC indicated very clearly in its comments to the DEIS, NCPC supports the M-NCPPC’s objections to the lack of impact assessments and analysis in the DEIS. NCPC stated it will not be in a position to issue its own Record of Decision for the use of CCA properties without a complete and comprehensive analysis of avoidance techniques employed, minimization efforts

²⁵ The Maryland Court of Appeals recently described M-NCPPC’s role with respect to the CCA as follows: MNCPPC is responsible for protecting lands under the Capper-Cramton Act, which was enacted by Congress in 1930 to “protect land on both sides of the Potomac River as an integrated park and parkway system known as the George Washington Memorial Parkway.” Land Use § 15-302(3) provides MNCPPC with the authority to act as the representative of this State in fulfilling the mandate of the Capper-Cramton Act in Maryland. The Act enables MNCPPC to enter into agreements with the National Capital Park and Planning Commission (“NCPPC”) for extending and developing protected lands in Maryland. Therefore, the Capper-Cramton Act provided for cooperation between NCPPC and MNCPPC, enabling MNCPPC to act as administrator over preserved lands.

Town of Forest Heights v. Maryland-Nat’l Capital Park & Planning Comm’n, 463 Md. 469, 518–19, 205 A.3d 1067, 1096 (2019) (internal citations omitted).



Jack Dinne
Steve Hurt
November 6, 2020
Page 9

attempted, appropriate mitigation to impacts (that would have to be known and addressed), etc., in the submission from M-NCPPC.

C. The JPA and supporting documents fail to adequately address required mitigation of environmental impacts.

First, the DEIS's Indirect and Cumulative Effects Technical Report states that the Corps and MDE will not issue their permits until a detailed compensatory mitigation package, including final mitigation design, is developed and approved.²⁶ The P3 contractor selected by MDOT SHA will be responsible for developing the Final Mitigation Plan as part of its final design of the project. MDOT SHA has not selected the contractor and has stated that it does not intend to do so until after it issues the Record of Decision concluding the NEPA review. The Corps and MDE should pause their JPA review until after MDOT SHA and FHWA complete the NEPA process and produce a compensatory mitigation package. Additionally, the Commission should have input regarding the impacts and mitigation associated with M-NCPPC properties. In the event the Corps and MDE determine to approve permits before the final compensatory mitigation package becomes available, they should require that at least 10% of the total project cost be set aside for the design and construction of mitigation projects, and held until the impacted Phase is designed and constructed, in order to ensure adequate mitigation.

Second, based on a review of the functional value rankings of the most significant environmental resources within the study area, M-NCPPC opposes the proposed on-site stream mitigation strategy which would provide a 0.5:1 credit ratio for impacts to stream resources classified as having "medium" function value.²⁷ As an initial matter, such streams are classified as less than high quality primarily because of degradation caused by lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls. MDOT SHA should not be able to cause the degradation and then cite the degradation it caused as a basis for having to undertake less mitigation.

Furthermore, the stream features listed as medium quality should be treated in the same way as the high quality resources are treated in relation to the on-site mitigation approach (0:1 on-site mitigation credit). The Project is in an urbanized area, characterized by extensive impervious drainage areas, so these ecosystems have high functional values that MDOT SHA should account

²⁶ DEIS Appendix O, Indirect and Cumulative Effects Technical Report, at p. 59.

²⁷ See JPA Part 13: Draft Compensatory Mitigation Plan, at p. 16.



Jack Dinne
Steve Hurt
November 6, 2020
Page 10

for and appropriately mitigate. Two specific examples of streams listed as "medium" quality are the Cabin John Creek mainstem and Sligo Creek mainstem, which are critically important to sustaining ecological function within their respective urbanized landscapes. Channels with a medium and high functional value are anticipated to be degraded as a result of construction and will have significantly lower function and value following construction and should therefore require full off-site mitigation.

Finally, without conceding that MDOT SHA can take or otherwise use parkland under the jurisdiction of M-NCPPC to implement a Build Alternative, in the event the Corps or MDE requires MDOT SHA to fund mitigation credits or a mitigation bank, the benefit of such mitigation should accrue to Montgomery and Prince Georges Counties directly and specifically. Since the Build Alternatives would take parkland acquired under the CCA or subject to restrictive easements and required to be protected and used as parkland in perpetuity, any mitigation should result in the creation of new parkland with substantially similar ecosystem and recreational values in those counties.

The Commission also has a number of specific technical comments contained in Appendix A.²⁸

D. The limits of disturbance in the DEIS and incorporated into the JPA do not adequately address the likely impacts of the project on aquatic resources.

Section 2.7.4 of the DEIS describes the Limits of Disturbance ("LOD") for the Build Alternatives, and Appendix B describes efforts by the Lead Agencies to minimize the LOD for each of the Build Alternatives. The LOD specified in the DEIS is substantially narrower than what MDOT SHA and FHWA depicted in earlier maps. For example, MDOT SHA and FHWA previously stated that the Project would require the movement of parts of Rock Creek and depicted a substantially larger LOD at Rock Creek Park between Rockville Pike and Stony Brook Drive.

²⁸ The Commission also notes that there are documented "Full Blockages" to fish migration upstream of Floral Drive on the FDA White Oak Research Campus, as identified in an August 2020 MWCOG Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account, will significantly limit the estimated 5,258 linear-feet of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch Special Protection Area, near Briggs Chaney Road. See JPA Appendix K, Site AN-6.

Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 11

Because MDOT SHA does not plan to finalize the Project design until after it completes the NEPA review and awards a contract to a firm to undertake the project, there is significant risk that the LOD will be much larger than what is reflected in the DEIS. For example, stream impacts identified on the Impact Plates in the JPA severely underestimate the true impacts that will result from the location of drainage channels and waterways surrounding the Project. The Commission appreciates MDOT SHA's past and future commitments to reduce to the maximum extent possible the LOD and construction impacts to the most critical resources within the project area. However, the LOD is likely to increase in many areas to allow for work to restore, stabilize, and protect natural resources, as well as for construction access, staging, grading, and materials storage. An important aspect of avoidance and minimization is minimizing the roadway footprint while still keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas to ensure that they will appropriately handle the increased drainage pressures that will result from advancing one of the Build Alternatives. Ongoing design of the Project must ensure stable tie-ins for outfalls, protection and restoration of stream banks, and improvements to resources based on Project impacts. M-NCPPC has preliminarily identified numerous locations where the LOD does not appear adequate for construction of these outfalls, necessary perennial stream stabilization, and roadway infrastructure.

Changes in access points also may increase the LOD. The LOD depicted by the Lead Agencies also may not accurately reflect impacts to cultural and historic resources, because the inventory of those resources is incomplete. Finally, the LOD may change based on the final design of the Project.

E. The JPA and supporting documents are inconsistent with Section 106 of the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act ("NHPA") requires the Corps to take into account the effects of its undertakings on Historic Properties and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.²⁹ Prior to the issuance or authorization of any permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, the Corps must consider the effect permits may have on Historic Properties.³⁰ Historic Properties include prehistoric or historic districts, sites, buildings,

²⁹ 54 U.S.C. § 306108.

³⁰ *See id.*

Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 12

structures, objects, sacred sites, and traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places ("NRHP").³¹

First, the Corps must consult with the State Historic Preservation Officer ("SHPO") and the Advisory Council on Historic Preservation ("ACHP"). Then, the Corps must identify properties that may be affected by the Project and determine their listing or eligibility for listing on the NRHP. The Corps must also define the Area of Potential Effect ("APE")/Permit Area for the Project, describe the horizontal and vertical (depth of ground disturbance) area of direct and indirect effects, and include a discussion on viewshed for the built environment. In consultation with the SHPO and ACHP, the Corps must assess the effects of any permits on Historic Properties to establish if they are adverse. The Corps also must resolve adverse effects by developing and evaluating alternatives to avoid, minimize, or mitigate these impacts.

The JPA notes that while the Lead Agencies will need to further evaluate the impacts of the Project on historic properties, they made a preliminary determination that Build Alternatives will have an adverse effect on historic properties.³² The JPA also indicates that the Lead Agencies' final eligibility and effect determination must be developed in coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the identified permit area.³³

The Lead Agencies admittedly have not finished identifying archaeological sites and historic cemeteries as required under Section 106 and are delaying that review for some properties. Additionally, the Lead Agencies' decision to consider M-NCPPC park units discretely rather than as a unit fails to take into account the historic significance of the park system. The Lead Agencies' failure to identify the historic properties that the Project may impact runs counter to Council on Environmental Quality ("CEQ") and the Advisory Council on Historic Preservation's guidance and negatively impacts the ability of the Lead Agencies to gain a full understanding of the Project's impacts and the mitigation that will be needed.

The MDOT SHA action that the Corps and MDE permits would authorize would negatively impact parkland administered by M-NCPPC that has historic value, including Rock Creek

³¹ *See id.* § 300308.

³² JPA Public Notice, at p. 6.

³³ *Id.*

Akin Gump
STRAUSS HAUER & FELD LLP

Jack Dinne
Steve Hurt
November 6, 2020
Page 13

Stream Valley Park, Sligo Creek Stream Valley Park and Sligo Creek Parkway, Cabin John Stream Valley Park, and Northwest Branch Stream Valley Park. Rock Creek Park and Sligo Creek Parkway are designated as historic resources in the National Register of Historic Places, and the other aforementioned parks have historic value as well—they were part of the park master plan developed around 1930 by M-NCPPC landscape architect Roland Rogers and represent an interconnected cultural landscape. These parks are part of the same cultural landscape system that M-NCPPC created to preserve the watersheds of the Anacostia and the Potomac Rivers and will be negatively impacted if any of the Build Alternatives are selected. It also bears repeating that, beyond the fact that these parks are historic resources, they were acquired with federal funds made available under the CCA and the 1931 Agreement, which prohibits the conveyance, sale, lease, exchange, or use or development of such lands for other than park purposes.

F. MDE should review MDOT SHA’s Clean Water Act Section 401 Water Quality Certification application sooner in the JPA process, and require MDOT SHA to submit further supporting information.

Section 401 of the Clean Water Act requires that before an applicant may engage in an activity that results in the discharge of a pollutant into the waters of the United States, the applicant must obtain a certification that the discharge will comply with applicable effluent limitations and water quality standards.³⁴ A Section 404 permit from the Corps is one such action for which a water quality certification is required. MDE is the Section 401 certifying agency in Maryland.

The Corps and MDE have stated in the Public Notice accompanying the JPA that MDOT SHA “expects to apply for a 401 certification from MDE concurrent with publication of the Final Environmental Impact Statement (FEIS) and comments from the public will be requested via a separate public notice.”³⁵ This is contrary to law and established practice. Under Section 401 of the Clean Water Act, MDOT SHA is required to request a Water Quality Certification from MDE before the Corps may issue an individual permit for any activity that may result in a discharge to waters of the United States.³⁶ As MDOT SHA points out in the Avoidance, Minimization, and Impacts Report prepared as part of the JPA process: “Under the [One Federal

³⁴ 33 U.S.C. § 1341; Md. Code, Environment Title 9, Subtitle 3; Code of Md. Regs. Title 26, Subtitle 8, Chapter 2.

³⁵ JPA Public Notice, at p. 6.

³⁶ 33 U.S.C. § 1341(a)(1).

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Appendix A

Comment No.	M-NCPPC Department	Reference	Technical Comment
1.	Montgomery Parks	DEIS-General	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations, and for this commitment to be reflected in the FEIS.
2.	Montgomery Parks	DEIS-General	The finalization of an LOD without consideration of Park-owned property more closely in terms of both stable outfall design and on-site stormwater opportunities is not acceptable. In our detailed review, Parks has identified several locations in which the current LOD does not reflect existing conditions in terms of stable stream and outfall transitions and onsite stormwater opportunities. In the FEIS and ROD, MDOT SHA needs to clearly define the process for LOD modifications moving forward. Specifically, how the P3 will be permitted to expand the LOD as needed during detailed and final design to accommodate these features.
3.	Prince George's Planning	DEIS-General	There was no mention of the Prince George's County Green Infrastructure functional master plan designations. Was it considered? Possible mitigation? Here is a link to the Prince George's County, Countywide Green Approved Infrastructure Plan for inclusion in the FEIS: http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan .
4.	Prince George's Planning	DEIS-General	The new Zoning Ordinance in Prince George's County is scheduled to be implemented via a countywide map amendment process that will begin in November 2020 and conclude by June 2021. Information may be found here: http://zoningpgc.pgplanning.com/ .
5.	Prince George's Planning	DEIS-General	While the reduced MSAT and GHG emissions are expected to decrease based on the improved fuels and vehicle technologies, how does the increased use of the highway play into this factor? Higher numbers of cars, even if they are more efficient would potentially have a negative impact that could negate the better technology.
6.	Prince George's Planning	DEIS-General	Table 2.7-2 in the NETR does not identify the impacts of the Forest Conservation Act in Prince George's County. Is it because our layer is incomplete?
7.	Prince George's Planning	DEIS-General	While SHA verified no impacts to the solar array near Manchester Park but what about impacts to the existing private mitigation bank in the area?

Comment No.	M-NCPPC Department	Reference	Technical Comment
8.	Prince George's Planning	DEIS-General	Specifically in Appendix E, page 23 there is no mention of Plan2035 – the comprehensive plan for guiding future development within Prince George's County. Some references to this document in the DEIS is necessary.
9.	Prince George's Planning	DEIS-General	While we don't want to encourage segmentation, it is hard for the average citizen to read and understand the document as it is currently written. Is there a way to relay the information in a manner that clearly identifies information for both counties? The DEIS and Technical reports are voluminous and hard for the average citizen to understand how the project impacts their local area.
10.	Prince George's Planning	DEIS-General	MNCPPC, Department of Parks and Recreation will require forest restoration to the extent practical. Please note that the Maryland Reforestation Law is inadequate for urban areas and does not take into account the lack of forest areas for mitigation in heavily urbanized areas. MNCPPC does not consent to tree mitigation outside of the immediate project impact area. MNCPPC requests an accommodation within the spirit of this law to add the Street Trees Program as reforestation mitigation and as mitigation for impacts to EJ areas.
11.	Prince George's Planning	DEIS-General	While not segmentation, identification of the impacts to the Prince George's County Department of Parks and Recreation. Perhaps a line to identify MoCo (495 and I-270) and Prince George's parks (Table 2-1p 23 of App F – draft 4(f).
12.	Prince George's Planning	DEIS-General	Cherry Hill Park is deed restricted for recreational use only. Any other use requires approval by the Secretary of the Interior. If M-NCPPC were in favor of converting a portion (south of the northernmost 100') of Cherry Hill Road Park to stormwater management in support of the managed lanes project / I-495 widening, we would need to apply to the Department of Interior's National Park Service to amend our 1976-1978 applications, and Department of the Interior would have to agree in writing. We disagree that Department of the Interior's review of the managed lanes project under Section 4(f) would constitute Department of the Interior's approval of use of a portion of Cherry Hill Road Park for stormwater management, as we would not have submitted the required amendments to our 1976-1978 applications and because the 4(f) review is likely done under a different part of Department of the Interior than National Park Service.
13.	Prince George's Planning	DEIS-General	Carsondale (PG:73-36) Agree with NRHP eligibility under Criterion A and that the community will be adversely affected by construction. Although there will be no impacts to contributing dwellings, the LOD includes portions of rear yards, some secondary structures. Agree with the report's conclusions that there will be multiple impacts to contributing resources that will result in a cumulative diminishment of the community's integrity of setting and design. Historic Preservation staff concurs that Carsondale is eligible for listing in the NRHP and that adverse impacts will occur.

Comment No.	M-NCPPC Department	Reference	Technical Comment
14.	Prince George's Planning	DEIS-General	Area AN-6 – Paint Branch Fish Passage – South Farm BARC. The area has high potential to contain archeological resources based on prior sites recorded close to the proposed LOD. Historic Preservation staff concurs that this area has a high probability of containing archeological resources and recommends a Phase I survey.
15.	Prince George's Planning	DEIS-General	Area AN-7 – Paint Branch – South Farm. This area has a high potential to contain archeological resources. Historic Preservation staff concurs that archeological site 18PR113 should be evaluated by conducting Phase II investigations and that areas not previously surveyed should be investigated.
16.	Prince George's Planning	DEIS-General	Area PA-1 – Back Branch – Agree that high potential area along the Chesapeake Beach Railway, 18PR605, should be further investigated.
17.	Prince George's Planning	DEIS-General	Historic Preservation staff have major concerns about the impacts of I-495/I-270 expansion project on the Greenbelt National Historic Landmark (PG:67-04-00). There will be major impacts from the construction proposed at the Greenbelt Road (MD 193) interchange, the Southway interchange, and to the Walker Family Cemetery at the north end of the Golden Triangle subdivision. Other significant properties that will be impacted include the Greenbelt National Guard Armory (PG:67-36), Greenbelt Park (PG:67-69), the Baltimore-Washington Parkway (PG:69-20) and the Beltsville Agricultural Research Center (PG:62-14). This includes visual impacts, increased pollution, and noise. An estimated 69.3 acres of Greenbelt Park will be affected by construction.
18.	Prince George's Planning	DEIS-General	Historic Preservation staff has major concerns about impacts to the Glenarden National Register Historic District (PG:72-26 & PG:73-26). The proposed widening will have significant impacts on existing structures and the gap between the two sections of the district will be further widened.
19.	Prince George's Planning	DEIS-General	The updated maps indicate that the LOD for Option 10 will go through the center of a slave cemetery near the New Carrollton Metro Station that has not yet been documented. This site needs to be further investigated to determine the extent of the burials and to be formally documented. All efforts should be taken to avoid impacts to this site and any burials.
20.	Prince George's Planning	DEIS-General	Document details and analysis need to be shown by County and/or by Phase/Segment. Information is too dense for the average reader to determine impacts by local area.

Comment No.	M-NCPPC Department	Reference	Technical Comment
21.	Prince George's Planning	DEIS-General	DEIS lacks Stormwater Management analysis. Assumptions based on replacement of in-kind facilities built prior to urbanization is unrealistic and inadequate.
22.	Prince George's Planning	DEIS-General	Please provide updated traffic analysis that models a telework option for former commuters.
23.	Prince George's Planning	DEIS-General	MNCPPC requests that MDOT include all permit requirements and mitigation projects and costs in the bid documents for the P-3 Construction Project Developer. Request procedure for change orders during construction to avoid costly project issues like the Purple Line is experiencing.
24.	Prince George's Planning	DEIS-General	Mitigation triggers need to be implemented. For example, By the 15 mile xx linear feet of stream restoration needs be completed and 10% of the forest mitigation will be completed. The mitigation strategy should reflect thoughtfully phased development instead of disturbing all 25 miles of Beltway in our County at once.
25.	Prince George's Planning	DEIS-General	Limits of Disturbance Adjustments – MNCPPC needs to be positioned to be able to request and review changes to the LOD as the project progresses to ensure minimization of impacts to resources and the use of best construction methods to be implemented.
26.	Prince George's Planning	DEIS-General	Lack of data on impacts to arterial roads and local roads.
27.	Prince George's Planning	DEIS-General	Prince George's County Non-Auto Driver Mode Share Goals (NADMS)

Comment No.	M-NCPPC Department	Reference	Technical Comment
28.	Prince George's Planning	DEIS-General	Will there be a COVID assumption incorporated into the modeling for both the impacts from teleworking and the impacts of reduced use of public transit?
29.	Prince George's Planning	DEIS-General	Incorporate Social Justice concerns into analysis and mitigation requirements.
30.	Prince George's Planning	DEIS-General	Utilize Street Trees Program as part of mitigation of impacts of Environmental Justice communities. Potential to increase tree canopy in Equity Emphasis Areas
31.	Prince George's Planning	DEIS-General	Environmental Justice should include a consideration of whether the projected transportation benefits address Environmental Justice concerns. I-495 and I-270 are regional interstate facilities serving as major freeways within Montgomery and Prince George's Counties. There is a need to conduct a detailed Environmental Justice evaluation on the transportation benefits of the Alternatives. While managed lanes can provide benefits for both the managed lanes and the general purpose lanes, there is no evaluation in the DEIS on who is benefitting and to what extent. There is a need to assess whether any of the Alternatives address equity/environmental justice concerns.
32.	Prince George's Planning	DEIS General	<p>Currently, within the Community Effects Analysis Area, the minority population percentage for Prince George's County was 86%.</p> <ul style="list-style-type: none"> • Tables within the Environmental Justice section of the EIS must be broken down by individual County impacts. • The Community Effects Analysis data must be broken down by County, Minority Population, Low-Income Population, and population areas of Limited English Proficiency in the Executive Summary. • Project document must demonstrate specifically how this project benefits the communities within Prince George's County that have minority or low-income populations. • Project document must demonstrate specifically how this project does not disproportionately affect the health or environment of minority or low-income populations. Currently, the analysis appears to indicate that only relocations were considered as impact factors. Was impact to local roads considered in the analysis? Was improved access to Environmental Justice populations for either interchanges or increased public transit options

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>analyzed?</p> <ul style="list-style-type: none"> Project document must include specific efforts/outcomes/comment resolutions to show the Environmental Justice communities were proactively provided meaningful opportunities for public participation in project development and decision-making. Environmental Justice mapping in the Community Effects and Environmental Justice Analysis is extremely difficult to read due to size and level of detail. Please provide more localized detail mapping in the document.
33.	Prince George's Planning	DEIS- General	Has an Environmental Justice specific analysis been performed on the public involvement efforts noted in the of the Community Effects Assessment and Environmental Justice Analysis to determine the percentages of minority, low-income, and limited English Proficiency populations participation in the public involvement efforts?
34.	Prince George's Planning	DEIS-General	The DEIS (FEIS and ROD) must contain a plan on how MDOT and the concessionaire will meet avoidance, minimization and mitigation requirements, including regulatory (404), parkland mitigation and parkland enhancements.
35.	Prince George's Planning	DEIS-General	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project.
36.	Prince George's Planning	DEIS-General	The ratio for mitigation should be increased the further away from the project the mitigation gets.
37.	Prince George's Planning	DEIS-General	Utilize Street Tree Program to increase Tree Canopy as Reforestation mitigation. Reforestation Law does not take into account heavily urbanized areas. MNCPPC prefers to add tree mitigation within the project impact area. Can we expand the mitigation to include County ROW? Tree Canopy as SWM has previously been approved for SWM credit over impervious area. County Resolution? Use Tree Canopy as a % of the mitigation in Urban Areas? Utilize MD Roadside Tree Law?

Comment No.	M-NCPPC Department	Reference	Technical Comment
38.	Prince George's Planning	DEIS-General	What is the status of the Site Search Report for Tree Planting opportunities?
39.	Prince George's Planning	DEIS-General	Mitigation should have a nexus to both the impact and use of the resources.
40.	Prince George's Planning	DEIS-General	Parkland impacted by the project must be replaced at an equal or greater natural, cultural and/or recreational value at a qualitative level, and therefore parkland replacement mitigation may exceed acreage impacted by the project.
41.	Prince George's Planning	DEIS-General	Mitigation for this project must be meaningful and create non-automobile connection. Preferred mitigation is to complete all of the trail crossings that connect the Beltway communities on both sides of the Beltway.
42.	Prince George's Planning	DEIS-General	For mitigation projects, a specific list of mitigation projects linked to impacts should be agreed upon in the Contract between P-3 and the Developer. We request 30% construction drawings prior to FEIS/ROD in order to review for impacts and mitigation. This may be provided in connection with a Mandatory Referral review at 30% design.
43.	Prince George's Planning	DEIS-General	Mitigation projects should be clearly shown. Please show proposed impact and associated mitigation projects by County. Consideration of continuous bicycle and pedestrian facilities along and across the project boundaries helps with connectivity.
44.	Prince George's Planning	JPA	The Joint Permit Application fails to follow MDE Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application.

Comment No.	M-NCPPC Department	Reference	Technical Comment
45.	Prince George's Planning	JPA	The JPA and impact plates do not detail if the impacts are Permanent or Temporary. Are all impacts to wetlands and waterways assumed to be Permanent?
	Prince George's Planning	JPA	The JPA and impact plates do not identify the property boundaries and adjacent property owners.
46.	Prince George's Planning	JPA	The JPA and impact plates do not show the distance of all proposed structures to all contiguous property lines and any appropriate County or State property line building restriction setbacks, rights-of-way and/or easements.
47.	Prince George's Planning	JPA	The JPA and impact plates do not show a plan view depicting existing and proposed conditions and structures. All plan view sketches should include, but are not limited to: north arrow; existing and proposed contours and/or grades; limit of surface water areas; ebb and flow direction of all water bodies (e.g., streams, tidal waters); applicant name and address; all horizontal dimensions of all proposed structures and impacts, existing conditions of the project site which includes all existing structures at or near the project site including neighbors; existing areas of wetland vegetation or mapped wetlands and buffers; the project boundary and a boundary demarcating the limits of disturbance. A section view showing existing and proposed conditions and structures.
48.	Prince George's Planning	JPA	The JPA and impact plates do not show description of construction access and methodology and a proposed construction schedule, with an estimated completion date.
49.	Prince George's Planning	JPA	The JPA and impact plates do not show a description of stabilization for temporary impacts.

Comment No.	M-NCPPC Department	Reference	Technical Comment
50.	Prince George's Planning	JPA	The design of the JPA and impact plates submitted for this project makes it extremely difficult to accurately review the quantity and type of impacts for each location. Please revise the impact plate section to include the relevant impacts on the adjacent/or previous page so one may view the list of impacts that are shown on the Plate with the actual Plate itself. Currently, one has to search for the plate, the impact quantities, the Wetlands and Waterways Features Table, the Impact ID Designation Key, and the Wetland Delineation Data Sheets in multiple separate locations.
51.	Prince George's Planning	JPA	The JPA fails to address or display stormwater management design including retrofitting or replacement of existing culverts and bridges, existing stormwater management flooding issues, Erosion and Sediment Controls, construction access, staging, grading, and materials storage. We understand that all of these items are assumed to be contained within the LOD, but these should all be shown on the impact plates.
52.	Prince George's Planning	DEIS-General	The LOD appears to be unrealistic in some locations.
53.	Prince George's Planning	DEIS-General	The Indirect and Cumulative Effects Report (pg. 59) states that a permit cannot be issued until a detailed compensatory mitigation package, including final mitigation design, is developed and approved by both USACE and MDE. For this project, the Contractor who will be constructing the project will be developing and providing final design for the mitigation component as the Final Mitigation Plan Development. The Contractor has not yet been selected, the mitigation has not been agreed upon yet, and there is not even a preliminary mitigation design. MNCPPC requests that USACE and MDE pause this Joint Permit Application review until a compensatory mitigation package has been developed by the Contractor with MNCPPC input and has been reviewed and approved by MNCPPC for impacts and mitigation associated with MNCPPC properties.
54.	Prince George's Planning	DEIS-General	In lieu of a final compensatory mitigation package provided by the Contractor, MNCPPC requests the Contractor's contract documents stipulate a 10% of total project cost set aside for the design and construction of all mitigation projects and commitments during Phase I of project construction.
55.	Prince George's Planning	DEIS-General	MNCPPC requests that all MDE required and USACE required mitigation sites and privately-owned mitigation bank credits be located within the MNCPPC jurisdictions.

Comment No.	M-NCPPC Department	Reference	Technical Comment
56.	Montgomery Planning	DEIS-General	<p>The DEIS should reflect the phasing of the project. For a project of this scope that is being implemented in phases with a significant time delay between each phase, Therefore, the NEPA process should be reflective of the approved phasing for development as approved for implementation by a P3.</p> <p>The RPA and its impacts for later phases will be more appropriately determined based on the outcome from earlier phases of development. For example, the outcome of Phase 1 -the Western Corridor may provide relief of the ALB bottleneck more reliably than theoretic modelling for the next Phase of the project.</p>
57.	Montgomery Planning	DEIS-General	Please provide more-detailed volume information for the managed lanes by providing a breakdown of HOV3+, transit, and tolled traffic for each road segment.
58.	Montgomery Planning	DEIS-General	The use of a simplistic 45-mph average speed to determine the 1,600 to 1,700 vehicles per hour per lane in the managed lanes was not validated to ensure that the managed lane vehicles would achieve the travel time savings that they are willing to pay. Without this validation, how can we have any faith that the modeled traffic assignments are reasonable? This is supposed to represent a typical average day condition.
59.	Montgomery Planning	DEIS-General	The removal of the collector-distributor (CD) lane system along I-270 was included as part of all the proposed Build Alternatives allowed for the proposed lanes to occupy existing paved areas rather than having to further expand the limits of disturbance and potentially increase environmental impacts. This change was made midstream during the Alternative Evaluation stage. M-NCPPC has previously commented that the inclusion of the conversion of I-270 from a local/express system as part of all Alternatives actually hides the incremental benefits of the actions proposed. A separate analysis should have been prepared of Alternative 1 with the local/express system removed to provide this comparison. Not doing this fairly simple analysis leads to the concern that the majority of the transportation benefits on I-270 are due more to the reconfiguration than due to the managed lanes.
60.	Montgomery Planning	DEIS-General	We recognize that simplistic assumptions are sometimes needed, particularly when there are many unknowns; however, we still feel that this critical part of the managed lane system (HOV use) deserves more analysis than presented in the DEIS. How have managed lanes in other jurisdictions fared regarding HOV usage when converting a highway with an HOV lane to a managed lane? There must be some examples in Virginia or Texas? It is pretty clear that the future HOV to be selected will be HOV 3+ given the need for consistent interoperability with the VDOT managed lanes. Why not just assume that? Changing HOV use from 2+ to 3+ can significantly reduce HOV demand, depending on congestion. If anything, this is a conservative assumption, and it would have allowed the analysis to provide meaningful data on how HOV travel would be impacted. So right now, we have no idea whether managed lanes will in fact increase or decrease HOV travel with HOV 3+ cars or shifts to public transit. Please assume HOV3+ and re-run the evaluations by modeling

Comment No.	M-NCPPC Department	Reference	Technical Comment
			HOV mode choice and present these results.
61.	Prince George's Planning	DEIS- pg.5, section 1.2.2	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and the Department of Parks and Recreation intends to have site restoration and mitigation for all temporary usage areas. The Department of Parks and Recreation requires land to returned to the Department's satisfaction. The restoration and mitigation will need to be approved by the Department of Parks and Recreation. A temporary use can, and often does, result in permanent impacts and the Department of Parks and Recreation will review and only permit temporary use after an agreement about proper restoration and mitigation is reached.
62.	Prince George's Planning	DEIS-pg.6	Total wetland impacts acreage seems too low. Please verify.
63.	Prince George's Planning	DEIS- Pg. 6 Table 2-1	Please show impacts by County.
64.	Prince George's Planning	DEIS- Pg. 6 2.1.2	"An assessment of temporary construction impacts will occur in later phases of design". We find this unacceptable as the definition of temporary construction impacts is too open-ended and broad. Please provide specific details at 30% plans level for review."
65.	Prince George's Planning	DEIS-Pg. 7	Please add a paragraph discussing County specific mitigation requirements for parkland beneath the NPS section.

Comment No.	M-NCPPC Department	Reference	Technical Comment
66.	Prince George's Planning	DEIS-Pg.8	Criteria for elimination of mitigation sites is too strict.
67.	Prince George's Planning	DEIS- Pg. 10-11	Forest Conservation areas – criteria for woodland replacement is too strict. Consider replacing trees on the Public ROW. Plant trees in EJ Communities for air quality and noise quality abatement, heat island abatement and for social justice. If the State reviews and finds trees are being removed rather than forest then the tree removal should be mitigated in Public ROW using the Street Trees Program and next generation shade trees in parks in close proximity to the Beltway. Prince George's County is prepared to provide GIS inventory of locations for tree planting.-
68.	Prince George's Planning	DEIS- Pg. 11 Table 2.2	Please provide impacts to trees on public land and private land.
69.	Prince George's Planning	DEIS- Pg. 12	MNCPPC Prince George's will also require replacement of trees on MNCPPC-owned parkland.
70.	Prince George's Planning	DEIS-Pg. 12	Please add a paragraph discussing the Street Tree Program in Prince George's County.
71.	Prince George's Planning	DEIS-Pg. 13	The presence of Federal and State listed species have not been confirmed within the study boundary. Please confirm the presence Federal and State listed RTE species prior to the FEIS/ROD and submit the report to MNCPPC for review.
72.	Prince George's Planning	DEIS-Pg. 14	Please provide survey results for the Butterfly Scorpion Weed to MNCPPC.

Comment No.	M-NCPPC Department	Reference	Technical Comment
73.	Prince George's Planning	DEIS Pg. 14	Confirmed location NLEB and IB will receive buffer. Don't we need to plant Loblolly Pine as mitigation? provide the results of the bat survey from the 2020 season
74.	Prince George's Planning	DEIS- Pg. 16 section 2.4.1	MNCPPC administers 2200 acres SVPs. This statement is low. 18,000 acres in PG alone. Please clarify that it is 2200ac of Capper-Crampton SVP PG and MC.
75.	Prince George's Planning	DEIS Pg.ES-16 Chapter 5	Please retain the word "significant" when related to parkland so that they qualify for Section 4(f) protection.
76.	Prince George's Planning	DEIS- Pg. 17-18 section 2.4.2 Table 2.3	Publicly owned parks of build alternatives table should reflect the owner of the parkland. Add comment to denote land acquisition program such as Capper-Crampton Act, Program Open Space, etc.
77.	Prince George's Planning	DEIS- Pg. 18	Refer to Appendix F – please include a summary of information here instead of referring away to different section.
78.	Prince George's Planning	DEIS- Pg. 19	Clarify where the Suburbanization Historic Context Addendum 1961-1980 is provided. Is this a State or Federal document?
79.	Prince George's Planning	DEIS- Pg. 19	Traffic data baseline year is set to 2017. This baseline is nearly 4 years old. What is the year by year percentage of increase assumption?

Comment No.	M-NCPPC Department	Reference	Technical Comment
80.	Prince George's Planning	DEIS Pg-19	Please include a Year 2020 traffic analysis into the data to reflect the current change in driving patterns due to an increase in teleworking.
81.	Prince George's Planning	DEIS- Pg. 20-22	Figure 2-1-2-3 mapping is difficult to read in hard copy form. Please change to Landscape orientation and enlarge.
82.	Prince George's Planning	DEIS- Pg. 26 Table 2.6	Every alternative shows TBD. Please provide specific details on noise abatement and sound barrier location.
83.	Prince George's Planning	DEIS- Pg. 33-34	Air Quality and Trees could be used inside ROW to reduce pollutants.
84.	Prince George's Planning	DEIS- Pg. 35	Properties Relocations- is this number final or does MDOT anticipate increases in Relocation?
85.	Prince George's Planning	DEIS- Pg. 36 and Pg.11	Tree Mitigation Cost- would be \$45m to offset the tree impacts from this project based on \$3000 an acre based on Tree Mitigation Bank
86.	Prince George's Planning	DEIS- Pg. 40	Prince George's County population has grown by over 35% since the highway was completed and is predicted to grow an additional 16%. How can existing culverts accommodate that level of growth and runoff from impervious surface? Please review all SWM facilities to accommodate current conditions.

Comment No.	M-NCPPC Department	Reference	Technical Comment
87.	Prince George's Planning	DEIS- Pg. 45 Table 3-10	Are the traffic model forecasts assuming all of the proposed projects listed in Table 3-10 will be built in the same timeframe as the Managed Lanes Project to alleviate congestion?
88.	Prince George's Planning	DEIS- P45-46 Figure 2-29	Figure 2-29 Volume Validation shows a +/- at 20%-45%. This seems exceptionally high range to base a traffic model on. A 45% difference between estimated and observed counts and screenline seems too large to be accurately used for volume assumptions. Please explain.
89.	Prince George's Planning	DEIS- Pg. 48 Figure 2-29-2-33	HOV Lane Data- what is the percentage of use of increase year over year for Non Tolloed HOV lanes?
90.	Prince George's Planning	DEIS- Pg. 50	New capacity through the Managed Lanes project could increase demand for growth in the area which will create increased secondary demand on schools, parks, local roads, etc. How is this expanded demand accounted for and mitigated by this project?
91.	Prince George's Planning	DEIS-Pg. 50	The Alternatives seem to primarily address the unmet need for expanded traffic/transit from previous growth. Do all of the alternatives address the forecasted anticipated growth?
92.	Prince George's Planning	DEIS Pg.51	Please include the discussion of Indirect Community Impacts by County here instead of referring the reader to the Technical Report in the Appendix.
93.	Prince George's Planning	DEIS-Pg. 52	Do the Screened Alternatives Cumulative Impacts take into account partial takes of private property or just full residential locations? Have you included in your cost estimates that some partial takings may result in full takings due to removal of access or other essential facilities?

Comment No.	M-NCPPC Department	Reference	Technical Comment
94.	Prince George's Planning	DEIS-Pg. 52	The analysis states that this proposed project will impact 24%-28% of the Environmental Justice Community with residential relocations and impact 25% of Environmental Justice Community businesses. What avoidance, minimization and mitigation measures have been taken to reduce this significant impact to the Environmental Justice community?
95.	Prince George's Planning	DEIS-Pg. 54	The statement "The impacts to parkland would primarily be narrow strips of ROW taken...and would not have the effect of bisecting existing facilities in most instances..." is incorrect. Please revise with the correct parkland impacts and discuss the cumulative effect of the loss of <u>any</u> parkland in a heavily urbanized area.
96.	Prince George's Planning	DEIS-Pg. 76	MWCOG model assumes Land Use as "mostly built out today and will be even more so by 2040". How can the model assume no additional build out for the next 20 years? What is the year by year increase in land use change in each County?
97.	Prince George's Planning	DEIS- Pg.76	Cherry Hill Road Park – mentions impacts from construction vehicles - will access be provided through the park or from I-495 only?
98.	Prince George's Planning	DEIS Pg. 77	How will the Stormwater Management Vault be maintained?
99.	Prince George's Planning	DEIS- Pg. 100	Impacts to Henry P Johnson Park from existing and future noise must be mitigated.
100.	Prince George's Planning	DEIS- Page 2-5 and page 102 Section: Alts Tech Report	How will incidences and congestion be measured on parallel roads via the IAPA memo? How will they be mitigated during the construction and operation of the ML?
101.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	The costs of construction will be covered over a 50 period with the bonds that the concessionaire will take out. How much will these cost the residents of Maryland? Does this include the costs for removing underground infrastructure? Who pays for that and how is that fiscally viable?

Comment No.	M-NCPPC Department	Reference	Technical Comment
102.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	Will the process of securing a municipal bond and financing of this project be made public and transparent? Based on the challenges of the Purple Line, is the market open to accepting bonds backed by the State of MD? Again, how will underground infrastructure under the Beltway be moved and who bears that cost? The residents of the Prince George's and Montgomery County were told that there is no cost for this project, now we understand this isn't the case.
103.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	While MDOT initially had high hopes for the P3 concessionaire for the Purple Line, it has become a financial nightmare. How can this project avoid the pitfalls of the Purple Line by allowing this P3 concessionaire to walk away from the project? The state and local jurisdictions cannot afford this additional project cost and will be considerably impacted.
104.	Prince George's Planning	DEIS- Page 2-7 Section 2.3	The breakdown of the segments mentioned as a part of Visualize 2045 make more sense as three projects which is why the logical terminii keeps coming up. The promise that another NEPA process for MD 5 to WWB will be proposed with no details or information about how, when and whether appropriate coordination will be required by the P3 Concessionaire, while I-270 moves forward, is unjust.
105.	Prince George's Planning	DEIS- Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives.
106.	Prince George's Planning	DEIS-Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives
107.	Prince George's Planning	DEIS- Page 2-33 Section 2.7.1	Full access to the UM Prince George's Hospital Trauma Center, is of paramount importance to Prince George's County. Emergency vehicles should not have to choose which exit to use. Full access deserves additional detailed study once the improvements are further defined and the design has advanced.
108.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible. It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This

Comment No.	M-NCPPC Department	Reference	Technical Comment
			includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted
109.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources
110.	Prince George's Planning	DEIS- Page 2-38 Section 2.7.2	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement. In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.
111.	Prince George's Planning	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.
112.	Prince George's Planning	DEIS- Pages 2-40	When the preferred alternative is chosen, and the detailed stormwater analysis is completed, the LOD will need to be altered to potentially accommodate additional areas of adjacent (on-site) stormwater management. What is the specific process that will be established in order to allow for these LOD changes? This process needs to be agreed upon early and documented in the FEIS, ROD, and P3 agreement.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.4 DEIS	
113.	Prince George's Planning	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
114.	Prince George's Planning	DEIS- Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
115.	Prince George's Planning	DEIS- Page 4-101 Section 4.16.4	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
116.	Prince George's Planning	DEIS - Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.
117.	Prince George's Planning	DEIS- Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
118.	Montgomery Planning	DEIS- Page 2-2, 2-21, 2-22	The analysis of the MD 200 Diversion Alternative as an avoidance technique for impacts to the top side of 495 was flawed. The request to include it did not consider the rationale. No analysis was done that looked for means to motivate drivers to use the ICC as opposed to 495 when the travel route makes sense. Through consideration of TSM/TDM approaches such as dynamic signage and consideration of changes in operations (speed limits) on the ICC, whether it would draw some of the traffic off of 495 and open that segment with reduced vehicles would address the question whether there is a need to increase capacity with the Build Alternatives, and if so whether Alternative 9M is enough.
119.	Montgomery Planning	Page 2-5 and page 102 Section: Alts Tech Report	The local roadway network evaluation is entirely inadequate to address concerns of local traffic changes, and we firmly believe that this information is needed at the DEIS/Alternatives Analysis stage, not at the IAPA/FEIS stage. Local traffic impact might be a critical factor in selecting which Alternative works for concerned citizens and localities, and the deferral of the detailed evaluation. While the managed lanes may in fact reduce local traffic overall, that statistic is more as important as locations where the managed lanes will increase traffic and add to existing congestion. This is a particular concern where direct access locations at

Comment No.	M-NCPPC Department	Reference	Technical Comment
			interchanges are proposed, including the managed lane only interchanges. Any mitigation needed to offset project-related impacts must be the responsibility of the P3 to address.
120.	Montgomery Planning	DEIS: Page 2-16 Section 2.5.2	We disagree with project elements (conversion of existing 3 hour HOV lanes into 24/7 tolled lanes where HOV MAY drive for free or get a discount) that provide improved capacity for paying customers at the expense of existing drivers in general-purpose lanes while providing worse traffic operating conditions in those GP lanes than under No-Build conditions. This is unfair to existing commuters who have waited for years for meaningful road or transit projects from MDOT, and who now have extremely long and congested daily commutes. There is so much peak spreading today, particularly from longer-distance commutes in Frederick County and points further west, that I-270 is jammed in Urbanna and Clarksburg at 5AM, 3PM before the evening rush hour, and still jammed at 7PM. Meanwhile, Upcounty Montgomery County residents pay the price for this lack of long-term planning that has not expanded in a meaningful way rail transit, bus transit or addressed existing highway bottlenecks..
121.	Montgomery Planning	DEIS- Page 2-16 Section 2.5.3	MD 200 Diversion Alternative should be moved forward as an ARD and studied in more detail, including analyses with and without the I-95 segment. It is irrelevant whether the managed lanes is a “closed” system as established by the terminus at Exit 5 in Prince George’s County. The O/D data indicates only a 5% usage between Prince George’s and north of I-270. The data indicates significant potential for use (20%) between the ALB and north I-95, which does not support managed lanes on I-95 between MD 200 and I-495. In fact, it acts to the detriment of diverting traffic by encouraging travel beyond MD 200 to I-495 East. I-95 now acts as a bottleneck to filter traffic onto I-495 and does this quite well. The MD 200 Diversion Alternative without this I-95 section would likely have very different results, which cannot be discerned with the information provided in the DEIS. Without the I-95 segment, the reduction in environmental impact provides a greater benefit for the MD 200 Alternative under 4(f). Inrix data today suggests that peak period travel in the southbound direction between I-95 at MD 200 and the American Legion Bridge is in fact faster on a regular basis using MD 200. Missing from this evaluation was a comparison of the existing TTI, PTI, and average travel time between the I-95/MD 200 interchange and the American Legion Bridge by direction and by peak period and projected travel times in 2040.
122.	Montgomery Planning	DEIS- Page 2-21 Section 2.54	The DEIS does not indicate whether a composite of Alternatives would be considered at different segments of the Study Area. Due to the size and scope of the project (48 miles), different segments of the effected highways, as well as impact to the surrounding road network does not lend the project to a single solution. There are multiple environmental, cultural and transportation impacts and solutions along the route, and therefore the selection of a single alternative may not be the better solution.
123.	Montgomery Planning	DEIS- Page ES-7 Page 2-35,	Regardless of whether heavy or light rail are considered as possible Alternatives for this project, structural accommodation for future rail across the ALB is the forward thinking design. The ALB will be not be replaced again for 50+ years, and this is the opportunity to build for the future. Besides, every other Alternative was analyzed for 2045, so why not the ALB? A design can be developed to minimize additional environmental

Comment No.	M-NCPPC Department	Reference	Technical Comment
			impact.
124.	Montgomery Planning	DEIS- Page 2-36	We object to MDOT SHA's refusal to consider equity as part of their project design. This includes income-level toll scaling, and other measures. They are essentially justifying an inequitable transportation project by design, and the lack of concern that income-based toll scaling may be needed, is proof of this disregard. In the current transportation paradigm, projects MUST be designed with equity in mind and as part of the Alternative selection process. Deferring EJ issues to the Preferred Alternative is too late, particularly if EJ impacts are severe.
125.	Montgomery Planning	Page 2-39 Section 2.8 Section 6.2.3, Alts Tech Report	<u>Lack of Financial Viability.</u> Each of the alternatives would require a significant state subsidy, which is contrary to all of the representations throughout the process that no taxpayer dollars would be required for the project. In fact, each of the alternatives would require some subsidy without description of the funding source. Section 6.2 presents a range of economic outcomes based on two metrics, interest rates and capital costs. The full cash flow tables are available in Section 6.2.3 in the Alternatives Technical Report (Appendix B of the DEIS). Because the cost estimates are preliminary and subject to change with market conditions , and based on the Purple Line experience, the contingency built into the estimates should extend to include risks due to potential delays for construction, land acquisition , and cost of litigation.
126.	Montgomery Planning	DEIS- Page 2-41	MDOT SHA has failed to consider local input and support for Master Plan goals within Montgomery County Master Plans and Transportation Demand Management Districts. How does the managed lanes project impact major activity centers and their non-auto driver mode share (NADMS) goals as specified in various adopted master plans and the new TMD regulations? NAMDS is a primary performance metric in many of Montgomery County master plans, and now per the TMD regulations, they apply countywide. We really have no information in the DEIS whether the managed lanes will help or hinder the NADMS goals in many of our master plans, because this has not been evaluated during the DEIS.
127.	Montgomery Planning	DEIS- Pages ES-12 Section ES, DEIS & Env Justice Section Page 4-13 thru 4-19 Section 4.5	On Table ES-2, for the metric Annual Average Hours of Savings per Commuter, does not distinguish which populations benefit. It is not appropriate to state that everyone is benefiting without an adequate analysis of the impact to EJ Communities. Determination of impacts to the EJ Communities at the FEIS will not address the systemic racism that occurs when marginalized communities are not asked to assist with the decisions at the outset, but only asked to fix the problem after it occurs. Disproportional benefits must be included as part of the EJ analysis. The vast majority of the travel time benefits will be provided to non-EJ populations, based on the design of the facility and the basic idea of managed lanes (travel time benefits for drivers willing and able to afford the tolls). Focused corridor-based public transit investment, adding or modifying access locations, and developing a toll subsidy program, should be addressed as part of the recommendation for the RPA.

Comment No.	M-NCPPC Department	Reference	Technical Comment
128.	Montgomery Parks	DEIS- ES 5 – Chapter 5	Add language stating that all M-NCPPC Parks are significant.
129.	Montgomery Parks	DEIS-Page 10 Section 1.2.7 App F Draft Section 4(f) Evaluation	Parkland impacts can only be considered de minimis if there is sufficient mitigation approved by MNCPPC. Parks with impacted resources will require reconfiguration to make the park whole and mitigation for the loss of parkland will be in addition to the onsite work.
130.	Montgomery Parks	DEIS-Page 10 Section 2.2 App Q Conceptual Mitigation Plan	MNCPPC Montgomery Parks will require tree replacement for trees removed on parkland, this will be above and beyond any regulatory requirements.
131.	Montgomery Parks	DEIS-Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	The resources identified in the project area are finite resources that provide essential natural resource value in an already heavily developed landscape. Once the avoidance and minimization process is applied to all natural resources on parkland, there may be areas that are too heavily impacted to continue to have meaningful ecological function; in these areas it may be appropriate to investigate adding SWM or other project needs. SHA must coordinate with Parks during preliminary design to adequately reduce impacts to forests. Relying on incentives to the concessionaire will not be sufficient to provide the required avoidance and minimization on parkland. In addition to Forest Conservation obligations, tree impacts on parkland will also be subject to mitigation for the actual loss of trees and the appropriate number of plantings necessary to make the park whole.
132.	Montgomery Parks	DEIS- Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	All parkland must be considered of the highest value for the avoidance and minimization process, as is mandated by the Policy for Parks. As discussed in other comments, MNCPPC does not concur that all reasonable measures to mitigate or minimize harm have been fully developed. As an Official with Jurisdiction, MNCPPC will require further coordination to minimize and mitigate impact as is described in the other comments
133.	Montgomery Parks	Page 94 Section 6.1.6 App B Alternatives Technical Report	As MNCPPC stated during the review of the ARDS, the approach of not considering environmental impacts as a differentiator between the preliminary screened alternatives is a flawed approach directly in conflict with the intent of the NEPA process. A major component of the NEPA process is to identify environmental impacts and to utilize the differences, as small as they may be, to select an alternative that avoids and minimizes potential impacts.

Comment No.	M-NCPPC Department	Reference	Technical Comment
134.	Montgomery General	Page 1-14 Section 1.8.2 Section 4f	Environmental responsibility must include language that requires - in the following order avoidance, then minimization of impact, then mitigation at equal or greater natural, cultural or recreational value.
135.	Montgomery General	DEIS page 2-37 section 2.7.2	MDOT SHA should add specific language in the FEIS that commits to utilizing innovative drainage techniques (such as water quality inlets, trash racks, and grit collectors, etc.) in all viable locations to take every opportunity to reduce the transfer of trash and pollutants from the MDOT SHA roadway into adjacent aquatic resources. There is currently no formal commitment from MDOT SHA to use these techniques in the final design.
136.	Montgomery Parks	DEIS Page 2-37 and 2-38 Section 2.7.2	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p>
137.	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	<p>The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible.</p> <p>It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
138.	Montgomery Parks	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's minimum regulatory stormwater requirements to actually address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources</p> <p>It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis of the SWM design until the highway design is at a later stage will not allow MDOT SHA to adequately address the SWM needs and aquatic resource protection and enhancement.</p> <p>MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM, but only when all on-site locations have been proven to be exhausted.</p> <p>It is important to note that the new impervious areas are not the only consideration. The highways within this project area (I-495 and I-270) traverse some of the most urbanized areas of Montgomery County. There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
139.	Montgomery Parks	DEIS: Pages 2-37 - 2-39	Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.2	<p>and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
140.	Montgomery Parks	DEIS: Page 2-38 Section 2.7.2	<p>Based on our field investigations, many existing culverts (most CMP with concrete outfalls) are failing (both in size classes <36" and >36"). When failing culverts are identified in the project footprint, they should be replaced with natural bottom culverts (where appropriate in perennial systems to promote aquatic passage) and stable environmentally enhanced outfalls to protect downstream resources. Understand that this comment from M-NCPPC is unrelated to any separate regulatory requirements regarding aquatic organism passage. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit in the FEIS and ROD to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p> <p>Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as an element of a Park mitigation package, but the intent must be included in the roadway design plans reflected in the FEIS and ROD.</p>
141.	Montgomery Planning	DEIS - Page 2-38 Section 2.7.2	<p>SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>
142.	Montgomery General	DEIS - Pages 2-38 Section 2.7.2	<p>M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Any SWM requirement deficits should first be met within the existing highway network and secondly within the impacted watershed.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
143.	Montgomery Parks	DEIS-Pages 2-39 Section 2.7.2	<p>More information on the stormwater treatment levels and adequacy of available SWM as shown needs to be provided now, while many design decisions are being made and an LOD is getting set. Specifically, a drainage area breakdown to all the POIs including total drainage area, impervious area, required treatment and treatment provided should be provided to all stakeholders.</p> <p>Additionally, what are the innovative approaches that may reduce the amount of offsite treatment? These need to be identified in the FEIS and ROD. Why would these approaches not be considered now? Is it possible that further analysis and design could actually increase the need for offsite SWM?</p>
144.	Montgomery Parks	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.
145.	Montgomery Parks	DEIS page 2-40 section 2.7.4	<p>The current LOD, as currently proposed by MDOT SHA, is unrealistic to depend on for impacts to parkland as it is a preliminary planning tool.</p> <p>A workable process for modifying the LOD that actually prioritizes land owner's interest and protecting resources, must be agreed upon between M-NCPPC and MDOT SHA and codified in the FEIS and ROD.</p>
146.	Montgomery Parks	DEIS Page 4-3 Section 4	<p>The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. For example, there are numerous existing degraded stormwater outfalls from the beltway that should be included in the project, and therefore the LOD so that they can be restored. The inclusion of these elements within the LOD would require an expansion of the LOD, but would result in an improved environmental condition. To date, MDOT SHA has been focused on minimizing the LOD to show the lowest impact to resources on paper, but not necessarily to achieve the lowest impact in the real world.</p> <p>We will want to see this reflected in our ongoing coordination with the project team, as well as formally in the FEIS, the ROD, and in the P3 agreement.</p>
147.	Montgomery Parks	DEIS- Page 4-34, 4-63, 4-66 Sections 4.6.3, 4.9	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations in the FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			See comments from Appendix D regarding noise barriers shown on Environmental Resource Maps for specific noise walls comments.
148.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources. In sensitive watersheds, this equates to going above the minimal regulatory ESC practices with additional BMP's to protect downstream resources during construction. MDOTS SHA needs to commit to these additional BMP's during construction in sensitive watersheds in the FEIS.
149.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
150.	Montgomery Parks	DEIS- Page 4-83 - 4-87 Section 4.12.4 DEIS	M-NCPPC appreciates the response from SHA that "MDOT SHA will continue to coordinate with M-NCPPC and the regulatory agencies to refine the LOD at Section 4(f) properties for the Preferred Alternative." As noted in other comments, a process for LOD changes must be created and documented (in the FEIS, ROD, and P3 agreement) for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy. Parks has submitted numerous detailed comments concerning the LOD. Parks appreciates both past and future efforts to reduce the LOD and construction impacts. However, Parks does expect the LOD to increase in some areas to allow room for appropriate work to occur to restore, stabilize, and protect various natural resources. An important aspect of avoidance and minimization is minimizing the roadway footprint while still potentially keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas.
151.	Montgomery Parks	DEIS-Page 4-84 - 4-85 Section 4.12.4	Parks requests details on retaining wall installation when being installed on or near a stream bank, Rock creek is an example. Due to the likelihood of needing an LOD expansion into sensitive resources, M-NCPPC requests further analysis of these areas before the FEIS and ROD. As noted in other comments, a process for LOD changes must be created for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy.
152.	Montgomery Parks	DEIS-Page 4-86 Section 4.12.4	Parks supports avoidance and minimization but requests adequate LOD to ensure stable tie in for outfalls, protection and restoration of stream banks, and to improve resources on-site that are impacted by the project. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls. Based on the limited information available, M-NCPPC believes that there are numerous locations where the LOD is not adequate for construction.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>LOD flexibility and changes are essential to ensure adequate environmental protection and cost-effective construction. The current LOD is based on standard roadway sections and modeling, and with better information from field investigations and further design, the LOD will need to be adjusted. The current LOD is preliminary and it should not be locked in at this point for the remainder of the project. The issue is that the P3 process may not provide the flexibility to adequately modify the LOD; This has been an issue with the Purple Line Project. As M-NCPPC has learned with many other projects, including the Purple Line, creating a “right sized” LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.</p>
153.	Montgomery Parks	DEIS-Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
154.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will provide tree species, locations, and planting requirements for forest mitigation as outlined in the memo sent to MDOT SHA.
155.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
156.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will require that access and hauls roads comply with Park Standards to protect existing resources. These measures are not mitigation but are part of operating on parkland.
157.	Montgomery Parks	DEIS- Page 4-101 Section 4.16.4	M-NCPPC appreciates the commitment from MDOT SHA to implement the maximum forest mitigation plantings within the affected watersheds. Parks expects to work collaboratively on locations on Parkland for trees removed from parkland.
158.	Montgomery Parks	DEIS -Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.

Comment No.	M-NCPPC Department	Reference	Technical Comment
159.	Montgomery Parks	DEIS - page 4-108 Section 4.18.3 Table 4-29	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
160.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
161.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	More emphasis needs to be put on the protection and restoration of aquatic habitat within identified sensitive aquatic resources. This is made more critical given the proposed longer culvert lengths. Culverts should holistically be installed/rehabilitated/replaced with an environmentally sensitive culvert design strategy. M-NCPPC looks forward to continued collaboration “in the future as part of the design and construction coordination.
162.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Fish relocation from dewatered work areas on parkland will be required; this is not considered minimization or mitigation; it is a requirement.
163.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
164.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system</p> <p>have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted 2017 Park, Recreation, and Open Space (PROS) Plan.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County • Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities • High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 • Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy • Special Trout Management Areas as noted in COMAR Title 08 • Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
165.	Montgomery Parks	DEIS-Page 5-9 Table 5-2	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
166.	Montgomery Parks	DEIS- Page 5-12 Table 5-3	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
167.	Prince George's Planning	DEIS- App. A Alternatives Technical Report pg. 103	How are the mitigation costs incorporated into the financial viability analysis if they are unknown at this point? It is a percentage of the total project cost?
168.	Prince George's Planning	DEIS- App. B Traffic Analysis Report pg. 81	We question whether +/-20% is an acceptable range? That seems like an especially large margin when we are discussing peak traffic volumes.
169.	Prince George's Planning	DEIS- App. F Page 5 Section 1.2.2 App. F	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	restoration and mitigation is reached. As a landowner M-NCPPC will determine the restoration of temporary use areas.
170.	Prince George's Planning	Appendix N	MNCPPC staff is requesting a copy of Appendix N – Draft 404(b)(1) Evaluation for review and comment.
171.	Montgomery Planning	App. A Page 115	We object to MDOT SHA's negative portrayal of reversible managed lanes as a concept. This has subjectively biased this evaluation. The rating of "low" for Alternative 13B as having a "low" ease of use due to the reversible lane system appears to overlook that a reversible lane system is very successfully in operation in the Commonwealth of Virginia on I-95 and I-395 and works quite well in a constrained environment when traffic flows are directionally peaked. This type of concept has merit precisely when space is constrained, and you are not able to widen outside the ROW. A lot of time has been spent to "bash" a concept in successful practice by VDOT for many years within the Greater Washington DC metropolitan area. While off-peak capacity and throughput are reduced, much of the negative discussion on page 115 is counter-productive and leads the reader to conclude that the final solution is already decided. This concept does have value, and the discussion should reflect that.
172.	Montgomery Planning	App. B Page 65 Section 3.3 Traffic Tech Report	Please document how you determined that peak spreading would reduce and how this would vary by alternative. How does this peak spreading affect transit and HOV usage? On 1-270, there is significant traffic flow outside of the peak period, and general-purpose traffic relies on the use of the existing HOV lane (when HOV usage is not enforced) to travel on 1-270. With the elimination of this off-peak benefit, to what extent will some of this traffic shift back to the peak period? In order to determine this accurately, you would need to understand the elasticity of travel patterns, and to what extent typical driver behavior has been shaped by congestion. So, if the American Legion Bridge will continue to be congested in the general-purpose lanes even with the managed lanes in place, is the price offered in the managed lanes enough enticement to shift when drivers start their commute? The FEIS should include considerably more evaluation of the off-peak hours and a more refined evaluation of peak spreading.
173.	Montgomery Planning	App. B Page 74 Section 4.1. C Traffic Tech Report	The FEIS should include considerably more evaluation of latent demand and induced demand. The section on latent demand and induced demand in the DEIS is not clear and extremely vague. The first sentence notes that both latent demand and induced demand have been accounted for. Then, no data is provided to document either demand case. The last part of this paragraph seems to indicate that further evaluations on induced demand has not been conducted but will be conducted when a Preferred Alternative is selected. Please modify this paragraph to correctly state what has been done, provide a summary of that work and conclusions, and note future efforts for the Preferred Alternative with the reason that this work cannot be performed for this DEIS. MWCOC not having a procedure is not a valid excuse to not to perform this evaluation. These concepts are well known, and this DEIS should have spent considerable time looking into this issue. A good technical

Comment No.	M-NCPPC Department	Reference	Technical Comment
			reference that should be considered for use in estimating generated traffic and induced demand has been prepared by the Victoria Transport Policy Institute.
174.	Montgomery Planning	App. B Page 107 Section 5.3 Traffic Tech Report	More evaluation of likely transit and HOV use should be prepared in the FEIS with projections, not simplistic assumptions. The DEIS does not account for trips using bus service. Although transit buses will be permitted to use the managed lanes, specific transit routes are currently undetermined and therefore, appropriate bus throughput cannot be assessed at this time." As part of a DEIS, the team should have done very basic data collection to inventory existing bus routes and ridecheck data for these routes. On I-270, this would include MTA buses and some RideOn buses. This is unacceptable, when you are reporting and projecting Person Throughput and data sources are available, and I assume, the model can even be used to estimate future bus ridership. More documentation is needed in this DEIS to support what existing buses and bus ridership currently use I-495 and I-270 and how this is projected to change with the project Alternatives. Without an accurate assessment of existing and future transit ridership, how can you possibly assess modal shift?
175.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls and stream stabilization. LOD on all maps needs to allow for future designs to appropriately tie into existing Park features; this is especially true of stream channels and outfalls. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
176.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	LOD will need to be updated for the FEIS to reflect the potential for additional SWM facilities. Parks has noted numerous locations where additional SWM might be possible and expects further coordination to finalize these locations
177.	Montgomery Parks	DEIS-General Comment App D Environmental Resource Maps	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations.
178.	Montgomery Parks	DEIS-App D Environmental	Cabin John and Rock Creek Stream Valley Parks both provide unique, high quality natural refuge in otherwise urbanized areas. Noise abatement measures in the form of noise walls are essential around natural resource

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Resource Maps, Map 60, Map 64, Map 65	areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Noise pollution created from anthropogenic activities has been cited as an increasing source of disruption to habitat suitability for wildlife. In addition, noise walls around natural resource areas provide auxiliary benefits of reducing human-wildlife interactions on the highway which is beneficial for human health and safety, traffic flow, and wildlife. These parks should be given particular consideration when it comes to noise abatement measures and noise walls should be considered essential to the parks' functions in providing valuable, natural refuge for both park patrons and wildlife inhabitants. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
179.	Montgomery Parks	DEIS-App D Environmental Resource Maps, Map 64, Map 65	Rock Creek Trail is one of the most popular trails in the DC Metro area and provides high-value natural and recreational services to the community in an otherwise urbanized environment. Noise walls adjacent to this valuable trail system and adjacent local parks are essential to providing the highest quality services to trail patrons and the surrounding human and wildlife communities. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
180.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 69	Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at this priority location.
181.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 114 and 115	Noise walls should be considered essential around Cabin John and the Robert C McDonell campground, where quiet and serenity serve a significant public need. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention, and is part of the intended objectives of campground function and appeal. Parks requires noise walls be implemented adjacent to Cabin John and the Robert C McDonell campground and anticipates a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
182.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – all drainage from road should be assessed to implement the most sustainable drainage solutions, simply replacing structures in kind or in the same location is not sufficient due to the steep slopes. Parks would like to evaluate the potential for combining flows from multiple outfalls, incorporating longer pipe lengths, and other measures to reduce long term erosion. All concrete flumes should be removed. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.

Comment No.	M-NCPPC Department	Reference	Technical Comment
183.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 807+00 - Increase LOD to tie in new pipe into the existing degraded channel. Create step pools in the existing channel. Extend LOD to end of SHA stream polygon or approximately 250ft down channel from existing LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
184.	Montgomery Parks	DEIS-	Northwest Branch STA 800+00 R- restore and enhance all outfalls on the southside of the beltway, remove concrete flumes, incorporate step pools, considering piping to outfall at lower elevations. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
185.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 801+00 L - Outfall on the North side of the Beltway and east of NWB is degraded, include entire outfall to NWB in LOD. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
186.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R 200ft – Outfall channel within proposed access road area is degraded, integrate enhanced outfall into site stabilization after bridge reconstruction. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.

Comment No.	M-NCPPC Department	Reference	Technical Comment
187.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R – Temporary use often creates a permanent impact and will need to be mitigated for as a permanent impact.
188.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 797+00 The trail must be restored to park standards after construction. The trail should remain open as much as possible during construction. A detour shall be provided any time the trail needs to be closed.
189.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 L - Outfall degraded. Concrete flume then minor erosion down steep channel. Investigate redirecting this runoff. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
190.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+95 R - Multiple failed concrete outfalls. Holistic approach to drainage and outfall on this portion of the alignment is needed. Consider piping outfall to lower elevation then outfall for all flow in area. This location needs immediate attention from SHA. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
191.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 794+00 L - Potential channel restoration. Extend LOD all the way to tributary to stabilize. Consider piping this water elsewhere. Severely eroded Outfall, not sure if water is supposed to be coming to this spot or is inadvertently coming down slope. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require

Comment No.	M-NCPPC Department	Reference	Technical Comment
			stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
192.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 792+00 L - Outfall degraded, if this outfall stays in this location, expand LOD 150 down channel to build enhanced outfall. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
193.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Brookview STA 823+00 – Investigate Potential SWM location with Parks. Due to the high impact on aquatic resources from this project all SWM opportunities near the project must be considered.
194.	Montgomery Parks	DEIS, App. F Page 5 Section 1.2.2 App. F Draft Section 4(f) Eval	The report states “The land must be returned to a condition that is at least as good as existed prior to the project...” and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper restoration and mitigation is reached. As a land owner M-NCPPC will determine the restoration of temporary use areas.
195.	Montgomery Parks	DEIS, App. F Page 10 Section 1.2.7 Draft Section 4(f) Eval	Parks will require additional avoidance and minimization efforts and specific parkland mitigation at a greater or equal value for each property before agreeing to any de minimis impact. This statement applies for all parkland affected by the project.
196.	Montgomery Parks	DEIS, App. F Page 11 Section 1.2.8 Draft Section 4(f) Eval	M-NCPPC, as the designated applicant to NCPC for any proposed changes to parks funded by the Capper-Cramton Act, will need a complete understanding and commitment from SHA regarding parkland impacts and mitigation before approval from NCPC is sought for the affected parks. This will include, but is not limited to, extensive impact minimization, adequate stormwater management controls, on-site restoration, on-site

Comment No.	M-NCPPC Department	Reference	Technical Comment
			mitigation, off- site mitigation, and parkland dedication. At the appropriate time Parks would expect SHA to provide necessary information for any potential submission to NCPC.
197.	Montgomery Parks	DEIS- App. F Page 18 Section 2, Draft Section 4(f) Eval	Parks expects further development of mitigation plans for parkland before the FEIS and ROD. In addition, a process for modifying the LOD and mitigation plans must be produced as part of the ROD and FEIS to ensure park resources are adequately protected during advanced design.
198.	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 220+00 L – from River Road to STA 215+00 consider stream improvements and stabilization. All outfalls should have stable tie-in to Cabin John Creek and consist of plunge pools and step pools.
199.	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- M-NCPPC appreciates that statement that the stream improvements where Cabin John creek flows under highway “may be considered during final design,” however incorporation of these improvements should occur before final design as this area is clearly within the LOD of the project and should be designed in coordination with the roadway design.
200.	Montgomery Parks	DEIS-App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- Ensure fish passage under Cabin John Parkway for Booze Creek. MCDEP is currently completing a stream restoration upstream of Cabin John Parkway and ensuring safe fish passage is critical at this location.
201.	Montgomery Parks	DEIS- App. F Page 38 Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- restrict LOD to ROW along south side of Cabin John Parkway. Parks looks forward to dressing needed LOD changes as part of the FEIS development.

Comment No.	M-NCPPC Department	Reference	Technical Comment
202.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 491+50 L - Currently outfall is stable. LOD provided is in Rock Creek for culvert replacement. Include bank stabilization of Rock Creek on right bank and stable outfall transition. Repaired and replaced culvert should have a natural channel bottom and promote fish passage. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
203.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 489+00 L - Outfall not shown on SHA maps. Will need to be labeled, addressed a stable transition into Rock Creek accommodated in the design and LOD.
204.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 493+50 L - Expand LOD to include enhancing outfall to Rock Creek. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
205.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - The right bank of Rock Creek will need to be stabilize and improved from 482+00 to 493+00. LOD expansion to include this work is required. If retaining wall is replaced, additional LOD and stream and bank restoration will be required. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
206.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 490+00 R - Restore trail after project. Keep trail open or provide detour during construction. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.
207.	Montgomery Parks	DEIS, App. F Page 46	Elmhirst STA 489+50 - M-NCPPC previously asked for MDOT SHA to provide justification for the need for a new pipe and impacts to stream. New culvert should have a natural channel bottom and promote fish passage.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
208.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R - Include stream restoration with in-stream structures and stream stabilization.
209.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R 300ft - Expand LOD for stream and trail work. Coordinate LOD and design with Parks. This work is required to make the resources whole.
210.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Address trash being washed down from roadway, clean up during construction and add trash racks to all inlets. M-NCPPC appreciates the response that MDOT SHA will coordinate with M-NCPPC on this issue. Commitment from MDOT SHA to provide maximum water quality protections at all inlets is requested.
211.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Stabilize bank in this reach due to close proximity to highway. If MDOT SHA does not want to include the bank stabilization in this location, extensive documentation of how the bank and stream will not be impacted by the proposed work is required.
212.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 484+50 L - Need to stabilize existing outfall tie in to Rock Creek. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
213.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 L 200ft - In conjunction with outfall add riffle over WSSC crossing and stream structure at bend, stabilize bank.
214.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 483+00 - Daylight outfall earlier, do not pipe directly into Rock Creek. Expand LOD to allow for the day lighting of this outfall pipe. This pipe is already shown to be fixed by the project, Parks is requesting a common sense change in LOD to maximize the benefit of fixing this outfall. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
215.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 472+00 L - Restore tributary with appropriate stream structures and stabilize bank with tie in to Rock Creek. Expand LOD to include tie in to mainstem.
216.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 463+00 L - Previous comment: Unclear why this LOD bump out is so large here. Need justification to approve Site visit and /or details about drainage facility. MDOT SHA response: This LOD bump out is to accommodate an augmenting existing drainage facility. This concern will be discussed as part of the ongoing coordination process and will be addressed in the Final Section 4(f) evaluation. M-NCPPC requests a site visit to discuss this LOD before the FEIS.
217.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 462+00 L -Stabilize outfall with plunge pool and fix degraded area. Catch trash and road grit. Limit LOD in high quality area. M-NCPPC requests a site visit to discuss this LOD before the FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
218.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 458+00 L- Outfall degraded. Concrete flume with significant road grit and trash. Remove concrete, stabilize and install grit separator. M-NCPPC requests a site visit to discuss this LOD before the FEIS. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
219.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 466+00 L - Potentially cut back pipes and day light culvert, install structure to stabilize and tie in to Rock Creek. Expand LOD to include stream tie in. M-NCPPC requests a site visit to discuss this LOD before the FEIS.
220.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock STA 495+00 L - from station 495+00 to 500+00 tighten LOD and implement measure to protect existing forest resources outside LOD, especially trees on the stream bank. Replanting and forest enhancement will be required. M-NCPPC requests a site visit to discuss this LOD before the FEIS
221.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L- Justify LOD here, should tighten LOD to the ROW. M-NCPPC requests a site visit to discuss this LOD before the FEIS
222.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L - Clogged outfall. Restore with plunge pool and remove adjacent phragmites australis. This work must be included as part of the roadway project. Adding more drainage to already degraded outfalls without improving the function is inadequate.
223.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9	Rock Creek STA 505+00 L - Add plunge pool, include channel tie in into the existing floodplain. Expand LOD for work. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
224.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 510+10 - expand LOD from outfall to Rock Creek and include outfall/stream restoration. Floodplain drainage into outfall/tributary should be restored to reduce incision and enhance floodplain hydrology.
225.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 517+50 L – expand LOD from culvert/outfall to confluence with Rock Creek. Incorporate stream and bank restoration. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
226.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 529+00 L - Potential SWM location. If grade works stage and stockpile then add SWM to drain into Tributary. Expand LOD. Control existing invasive plants as part of site restoration. MNCPPC understands the topography may not be suitable, but we encourage all creative solutions to SWM treatment.
227.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 537+50 L - protect existing high quality wetland between toe of slope and Rock Creek.
228.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 558+00 L - failed CMP culvert. M-NCPPC appreciates the LOD extending 45’ beyond outfall. Parks requests a site visit to review LOD before FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	
229.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 563+50 R - Potential SWM location, linear facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
230.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 566+50 L - Facility Impacted. 565+00L to 599+00L include Rock Creek and 30 ft to the N/W of Rock Creek in LOD to incorporate stream improvements and bank stabilization. This area has 8-10 ft high vertical banks and is degraded from the existing transportation facility. Parks requests a site visit to review LOD before FEIS.
	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 568+25 R - Highly value resource. Construct new pipe/channel/headwall to ensure that existing wetland water elevations are maintained or enhanced.
231.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 575+50 L - from STA 565+00 to 590+00 Rock Creek needs to be in the LOD to allow for required stabilization and improvements. The reality of having the proposed LOD so close to the bank as currently shown will impact this high value resource. Parks expects the LOD in this area to include Rock Creek and that the design will include stream restoration to enhance aquatic habitat, improve water quality, and provide bank stability. As stated to the project team previously, Parks' preference in this area would be to shift any necessary impacts resulting from widening to the south where environmental resources are of a lower quality.
232.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 578+00 L 200 ft - Potential stream restoration. Address incised tributary, raise stream bed to promote floodplain activity.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	
233.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 580+80 L - Outfall degraded. Address outfall drainage channel. This outfall and channel need to be included within the LOD. MNCPPC requests a field visit before the FEIS.
234.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 585+30 L - Potential floodplain tree planting area.
235.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 L 300ft - address incision in tributary on left bank of Rock Creek. Raise tributary bed. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
236.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 - Incorporate improvements to Rock Creek under the beltway. Expand LOD to include Rock Creek stream to Jones Mill Road Bridge. Rock Creek will be directly impacted by the construction of roadway infrastructure, part of the project must include improvements to the creek in this area.
237.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 590+00 - Facility impacted, keep trail open during construction, improve trail under beltway per appropriate standards for bicycle and pedestrian safety. Previous MDOT SHA reply to this comment stated this area might be considered for mitigation. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.

Comment No.	M-NCPPC Department	Reference	Technical Comment
238.	Montgomery Parks	DEIS, App. F Page 58 Section 2.1.15 Draft Section 4(f) Eval	Noise abatement measures in the form of noise walls are essential around parkland in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in this Montgomery Parks' priority location. In addition, park improvements, such as renovated basketball court, playground, and other improvements in order to make the park functional again given the roadway impacts must be included at this location.
239.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Potential SWM location, north of Beltway, east of Sligo Creek Parkway. There are two outfalls that flow into this area. Parks suggests investigating this area for SWM. DOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
240.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Outfall degraded. The outfall that flows onto parkland should flow into a SWM facility (referenced above) and should have a proper plunge pool. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
241.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 691+00 L - Existing outfall channel from Beltway and Sienna School parking lot should be converted into enhanced outfall/SWM facility. STA 689+00 to STA 692+00. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
242.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 688+50 R – Replace existing concrete flume with enhanced outfall with step pools. SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

Comment No.	M-NCPPC Department	Reference	Technical Comment
243.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 L – Investigate use of parkland north of Beltway, west of Sligo Creek Parkway, and south of Forest Glen Road for Potential SWM location. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
244.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 686+00 L - Outfall degraded. Extend LOD to include 30 feet beyond bank of existing drainage outfall. Construct enhanced outfall or linear SWM facility. STA 686+00 to 687+00. MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
245.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+50 L - Fix existing erosion gully over culvert. This is within the ROW. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
246.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential stream restoration. SHA needs to install grade control structures upstream of culvert to help maintain flow through culvert. Right side of culvert has filled in and should be cleared out by SHA. SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
247.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential SWM location, there is an existing SWM facility, but it does not appear to be a formal facility that is maintained by any agency. This area could be used for a SWM facility built by SHA. MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
248.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 682+50 L - Outfall degraded. Install enhanced outfall to transition water down the slope to trail culvert. MNCPPC appreciates the commitment from MDOT SHA stating that "This outfall channel is located within the LOD. If discharges to the outfall are increased, the channel will be stabilized."
249.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 683+00 - Provide trail detour or maintain trail to be open during all phases of construction.
250.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 R - Install instream grade control below culvert, ensure fish passage through culvert.
251.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 R- previous M-NCPPC comment: The SWM Facility will be impacted by the proposed road work, the Flow splitter is being impacted and Will need to be reconstructed. Other work to enhance the existing SWM facility should be investigated. MDOT SHA response: A retaining wall is used in this location to minimize impacts. Impacts to the flow splitter appear to be temporary to allow for construction. MDOT SHA will continue to coordinate with M-NCPPC and may consider expanding this SWM facility. MDOT SHA should consider any and all SWM improvements that can be included in the project and this locations represents a good location to look at expanding SWM capacity.
252.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+00 R- M-NCPPC requests a site visit before the FEIS for this location to review potential impacts to the stream and existing SWM facility.

Comment No.	M-NCPPC Department	Reference	Technical Comment
253.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	STA 700+00 – M-NCPPC requires coordination with the Montgomery County Revenue Authority to review proposed impacts and improvements to the Sligo Creek Golf Course.
254.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community
255.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L - Parks is supportive of further investigation of Potential SWM location on Sligo Creek Golf Course, to include repairs to adjacent parkland from the existing untreated highway runoff. Work will require an expanded LOD for further stabilization of the existing outfall stream channel and appropriate stable connections from the channel to any new stormwater infrastructure.
256.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
257.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community.
258.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14	STA 707+00 L - Parks is willing to investigate Potential SWM location on parkland MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
259.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
260.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 743+50 R - Potential SWM location on parkland. Parks would like to investigate constructing a SWM facility adjacent to the sound wall. This area is the headwaters of Long Branch and all measure to improve water quality should be implemented. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
261.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 R - Outfall degraded, incorporate plunge pool and level spreader to maintain braided surface flow of stream system. This area is the headwaters of Long Branch and all measures to improve water quality should be implemented. Although outfall is currently stable, the proposed roadway work will impact his outfall and increase flows to this outfall, necessitating improvements.
262.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 744+00 R – Construct rectangular playing field on parkland to park standard as part of park reconstruction.
263.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section	Indian Springs STA 753+50 R - Ensure no impacts to tennis court.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		4(f) Eval	
264.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Facility impacted, reconstruction and improvement of basketball court will be required.
265.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Noise abatement measures in the form of noise walls are essential around natural resource areas and local parks in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from undue anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls at this priority location.
266.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 - Maximize SWM in this location in general, this is the headwaters of Long Branch. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
267.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 757+00 - Extend LOD to Marshall Ave to improve channel. Channel improvements should be done in conjunction with SWM facility. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
268.	Montgomery Parks	DEIS, F Page 74 Section 2.1.23	Northwest Branch STA 807+00 R – investigate potential SWM location here, Parks would consider providing parkland for a SWM facility.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
269.	Montgomery Parks	DEIS, App. F Page 74 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – Environmentally friendly slope stabilization and replanting must be coordinated with Parks for the entire LOD around NW Branch to ensure adequate protection of steep slopes. This park is a Best Natural Area and special consideration and protection is required.
270.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3685+00 R 575ft - along Tuckerman Lane outfall is degraded, outfall has filled in. If the area remains in LOD, restore outfall and channel. Please confirm if the outfall will be inspected by MDOT SHA.
271.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+50 R - along Tuckerman Lane outfall, incorporate plunge pool and stable tie in to Cabin John Creek.
272.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - along Tuckerman Ln Area designated for SWM contains thick spicebush understory and numerous large tulip poplar and sycamore trees. The area is in the floodplain of Old Farm Creek and adjacent to a wetland, therefore the area is not suitable for SWM. The outfalls in the area should be enhanced with plunge pools and step pools.
273.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - If the culvert for Old Farm Creek is lengthened or replaced, stream restoration downstream of the culvert should occur for at least 220ft. LOD should be expanded to include this section of stream.

Comment No.	M-NCPPC Department	Reference	Technical Comment
	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3684+00 R - Area designated for SWM would be difficult to access due to retaining wall, with steep slope and trees.
274.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3639+50 R - Area designated for SWM has numerous mature trees, understory of spice bush and large sycamores, resources critical to the area's designation as a Parks Biodiversity Area. SWM location will need to be revised. M-NCPPC agrees that there are limited locations for SWM. We are ready to work with MDOT SHA to revise the proposed SWM location. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing the SWM in a way that fits in with the resources at the site. This area is designated as a biodiversity area due to the high-quality forest resources. As the SWM is proposed, the impacts to the forest interior are too great to sustain. Revising the footprint of the SWM to be more linear along the highway, generally extending no further than 25' into the forest from the existing natural surface trail, would greatly reduce forest impacts and provide ample room for SWM. M-NCPPC acknowledges the existence of a wetland that the proposed SWM is trying to avoid, however, by avoiding any wetland impacts, the overall degradation to the natural environment is greater in this location due to the forest interior impacts and the relatively low quality of the existing wetland. In fact, the wetland hydrology appears to be mainly provided from an untreated highway outfall and the hydrology may be impacted by the creation of any SWM in this area. M-NCPPC recommends designing the SWM in a way that may impact a portion of the existing wetland footprint (which is PEM wetland along the leading edge next to the highway), but ultimately enhancing the wetland by providing a source of treated water as one the main hydrological inputs.
275.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3640+00 R - degraded outfall channel with headcut will need to be restored. This outfall is severely incised to the confluence with Cabin John Creek and must be restored along the entire length to be able to sustainably handle the proposed increased flows from the highway improvements. In addition, the proposed SWM work adjacent to the channel will also work in conjunction with a restored outfall channel. Raising the stream bed elevation of this channel will positively influence the hydrology of the adjacent wetland area, negating some of the possible impacts to the wetland by the M-NCPPC proposed SWM location (see comment above).
276.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3635+00 R - to 3640+00 R The natural surface trail must be re-routed through or around any proposed SWM facility in accordance with M-NCPPC trail guidelines and specifications.

Comment No.	M-NCPPC Department	Reference	Technical Comment
277.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3628+00 L - suggested location for SWM, avoid mainstem stream. Degraded outfall. Although the area is limited, every effort should be made to provide onsite treatment of SWM. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing SWM in this location as there is existing highway drainage and favorable topography. M-NCPPC can justify the small impact to the forest edge for the benefit of stormwater treatment in this important watershed.
278.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L - restore degraded outfall from roadway. As observed during the site visit with SHA representatives on 10/28/20 M-NCPPC, there is an existing steep, severely eroded outfall (may be surface drainage) that will need to be restored.
279.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L – As discussed during the site visit with SHA representatives on 10/28/20 M-NCPPC does not see a need for culvert capacity augmentation at this location. Any upstream alterations to the 100 yr floodplain will occur solely on M-NCPPC property and will not affect any built infrastructure. The installation of an augmented culvert will have unjustified impacts for little to no resource benefit. The existing culvert extension should be limited as much as possible since the stream is very stable on both the upstream and downstream ends of this project. M-NCPPC will require limited stream work (cross channel grade control, stone toe, etc.) to maintain the stable nature of the stream at both ends of the culvert.
280.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 466+50 R - Potential SWM location. Area receives runoff from outfall, degraded area with invasive plants. Treat invasive species if selected for SWM. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
281.	Montgomery Parks	App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+00 - Tie existing stream work into outfall as directed by Parks. Current LOD is appropriate for culvert work, but would need to be larger for potential SWM facilities. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

Comment No.	M-NCPPC Department	Reference	Technical Comment
282.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+10 R - Significant tree. There is a large sycamore within the LOD that should be protected and preserved.
283.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 468+50 R - Potential SWM location. There is a small clearing, Parks suggests investigating SWM in this location MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
284.	Montgomery Parks	DEIS- App. F Page 149 Section 3.1 Draft Section 4(f) Eval	Parks requests a meeting to go through the comments that concern avoidance and minimization of parkland impacts. There are numerous instances where an LOD expansion is required to appropriately address resource impacts, protection, and restoration. Alternatively, there are locations where further avoidance and minimization need to be considered to reduce the LOO. In addition, Parks would like to discuss SWM locations on parkland that are described in our comments. We look forward to the opportunity to collaboratively address each of these issues. As M-NCPPC has learned with many other projects, including the Purple Line, creating a "right sized" LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.
285.	Montgomery Parks	DEIS-Appendix K – Public Phase 1 Mitigation Design Plans – AN-6 Paint Branch Fish Passage	There are documented "Full Blockages" to fish migration upstream of Floral Drive on the FDA White Oak Research Campus, as identified in an August 2020 MWCOG Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account will significantly limit the estimated 5,258 LF of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch SPA, near Briggs Chaney Road.

Comment No.	M-NCPPC Department	Reference	Technical Comment
286.	Montgomery Parks	DEIS- Appx L 2.3.4 page 32	M-NCPPC appreciates the commitment to minimizing impacts. In order to effectively implement the second tier of avoidance and minimization, M-NCPPC requests that MDOT SHA produce a detailed process as part of the ROD that outlines how LOD modification will occur to ensure that actual resource protection and enhancement can be achieved.
287.	Montgomery Parks	DEIS-App L NRTR Page 38 Section 2.3.4	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will ensure that SHA is unable to adequately address SWM needs and aquatic resource protection and enhancement. Parks does not agree that the “LOD would not need to be enlarged” because as Parks has stated some of the SWM proposed is not feasible and other opportunities will need to be considered.
288.	Montgomery Parks	DEIS, App L NRTR Page 51 Section 2.4.2	Report acknowledges that Rock Creek was already relocated for beltway construction. SHA must commit to providing a net benefit to Rock Creek by expanding the LOD as directed by Parks to provide bank stabilization, bank restoration, in stream structures, and habitat creation. Two locations where Parks expects this to occur are near Cedar Lane and Jones Mill Rd. The LOD must be appropriate to restore and protect resources directly affected by the roadway project as part of the roadway design and construction and not as mitigation. The LOD directly on a stream bank is not considered minimized as it relates to Section 4(f) because the location of the LOD has adverse impacts not currently being accounted for.
289.	Montgomery Parks	DEIS, App L NRTR Page 83 Section 2.4.4	Report states. that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
290.	Montgomery Parks	DEIS, App L NRTR Page 145 Section 2.9.3	This project has the opportunity to correct an existing impactful situation and these culverts won’t be able to be addressed in the future. All culverts should be evaluated for several factors, including stability and habitat, and the project team should identify those and plan for replacement following modern guidelines and best practices.
291.	Montgomery Parks	DEIS, App L NRTR Page 146	SHA must ensure that the extension and replacement of culverts results in improving aquatic organism passage, not a decrease. MNCPPC is the owner of the majority of aquatic resources affected by the proposed culvert extensions, additions, and replacement, and the potential degradation of aquatic habitat and decrease in safe passage is considered a detrimental impact to Park resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.9.3	
292.	Montgomery Parks	DEIS, App L NRTR Page 148 Section 2.9.3	Parks will require the removal of fish from dewatered work areas to limit fish mortality. The removal must be performed by staff certified through the Maryland Biological Stream Survey program. In addition, all best practices for ecological construction to limit impacts to aquatic biota must occur.
293.	Montgomery Parks	DEIS, Appendix 4, pg 125	Station 3660+00 L Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends assessing the suitability for expanding SWM treatment on the Old Farm NCA (at the end of Tilden Ln) or designing additional SWM on the Old Farm NCA. The SWM should be kept on the highway side of the parcel with limited encroachment into the existing open space. M-NCPPC is interested in providing as many opportunities as possible for SWM and appreciates SHA's efforts in evaluating this area.
294.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system</p> <p>have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County • Areas of exceptional scenic beauty <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> • Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<ul style="list-style-type: none"> • Rare, threatened, endangered or watch-list species • The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities • High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 • Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy • Special Trout Management Areas as noted in COMAR Title 08 • Areas of exceptional scenic beauty <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p>
295.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.
296.	Prince George's Planning	DEIS, General Public Involvement and Agency Involvement Technical Report	The In-Person Public Meetings held on September 1, 2020 and September 10, 2020 had limited access for Deaf/Hard of Hearing community members. Limited in person access due to Covid and no livestream allowed for telephone access only which was burdensome if one does not have a landline or has to use a Teletype to communicate.
297.	Prince George's Planning	DEIS, Conceptual Mitigation Plan Comments - General	Can the Landover Mall property be used for mitigation for Parks and Reforestation?

Comment No.	M-NCPPC Department	Reference	Technical Comment
298.	Prince George's Planning	DEIS, Indirect and Cumulative Effects Report Figure 1-2	Figure does not fit on page in hard copy form. Please revise.
299.	Prince George's Planning	DEIS, Compensatory Mitigation Plan Report	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project
300.	Prince George's Planning	DEIS, Traffic Technical Report Comments	Insufficient Analysis of the ICC Alternative. MD 200 Diversion Alternative should be studied in more detail with various modeling assumptions including with or without the I-95 segment.
301.	Prince George's Planning	Purpose and Need Comments – General	Reiterate the MNCPPC Non-Concurrence with the ARDS of this project
302.	Prince George's Planning	DEIS-SWM	Find ARDS and PN comments on SWM locations that flood.
303.	Prince George's Planning	DEIS-Environmental Justice Technical Report Comments	Incorporate Social Justice concerns into analysis and mitigation requirements.
304.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 23	Plate 23A – 1200- LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Park.

Comment No.	M-NCPPC Department	Reference	Technical Comment
305.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12SS-PFO – LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer imp act in Cherry Hill Road State Park.
306.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ- LOD is unrealistic. Please expand the LOD it includes impacts to wetlands and waterways.
307.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ – why are the proposed Stormwater Management Facilities not shown in this location?
308.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12OO_1 – a foot path utilized by Cherry Hill Road State Park users is located downstream in line with Cell 4 of the 4-cell culvert. What is the plan for this culvert and how will the project design prevent the downstream erosion of this foot path?
309.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – what is the proposed access for the proposed Stormwater Management Facility?
310.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A-Henry A Johnson Park – culvert located at Station 1425+01 appears undersized and damaged. Please provide culvert detail.
311.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – existing Noise Barrier is not providing adequate noise abatement for park users. Location has significant roadway noise during off-peak hours. Relocating the Noise Barriers to the proposed LOD will impact the quality of the park use.
312.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – 7C-PEM. There appears to be a wetland just beyond the LOD at 7C-PEM in the swale at the basketball court. Was this location field delineated? There was no wetland flagging present at the time of the field visit in August 2020.
313.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – why is the proposed Stormwater Management Facility for this location not shown on the impact plates?

Comment No.	M-NCPPC Department	Reference	Technical Comment
314.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 54	Plate 54A – Andrews Manor Park – how will construction and maintenance access be provided to this site and facilities? Currently, the only access is from the shoulder on the Capital Beltway.

CASEY ANDERSON (M-NCPPC CHAIR)

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

Name: Casey Anderson

Joint Public Hearing Date: 8/18/2020

Type/Session: Live Testimony/Morning

Transcription:

My name is Casey Anderson. I'm chair of the Maryland National Capital Park and Planning Commission and Montgomery County Planning Board. I'm also a Montgomery County resident. I live at 87 31st Avenue in Silver Spring. I want to touch a few substantive points, but there's something that came to our attention last night that we want to put on the record. The M-NCPPC technical staff on July 10th downloaded the Draft Environmental Impact Statement and accompanying material that MDOT published and indicated it was ready for public review and comment, but we learned that just last night that more than sixteen hundred pages have been added to the draft DEIS materials. This was not noticed to the public. We only know about it because members of the press and advocacy groups pointed out to us. We believe that addition of this new material without notice to anyone involved in the process raises serious doubts about whether the comment period must be extended in order to comply with NEPA, and just as importantly, it raises questions about why MDOT failed to disclose the modifications to the materials until they were confronted by members of the press, and even then, initially denied that there'd been any changes to the materials.

We believe that it's legally required to extend the deadline for public comment and reset the clock, as well as rescheduling of these public hearings. I want to address just three points briefly and we'll submit additional written materials for the record. The first is that the draft DEIS that we've reviewed demonstrates a lack of financial viability and incomplete project costs. The DEIS shows it will be almost impossible for this project to be delivered without a significant alternative source of public revenue. That is critical to the NEPA analysis because SHA rejected consideration of transit alternatives on the grounds that they will not pay for themselves without an additional source of revenue, but it's clear now that neither will the addition of toll lanes. That means the decision to exclude transit and other alternatives that would require outside sources of funding is arbitrary and capricious. In addition, the failure to account for likely and foreseeable cost growth and revenue shortfalls mask the true costs of adding managed lanes, both in absolute terms and in comparison to transit. The ICC bypass option that we've offered and other alternatives.

Secondly, it's clear that the limits of disturbance analysis provided in the DEIS is not accurate. It will have to be changed because it changes access points and for reasons of constructability, which means that the draft DEIS LOD cannot be a legally adequate basis for evaluating the environmental impact of the project.

Finally, we want to point out that MDOT has failed to advance a reasonable range of alternatives, including at least a standalone transit option or combination of transit, together with the ICC bypass option or some combination of the two that would reduce the environmental impact of the project. It is not legally sufficient to say that neither transit nor the ICC bypass completely fulfilled the purpose and need. The question is whether or not there is a way to produce a less environmentally damaging alternative that at least provides some substantive contribution towards the purpose and needs identified in the project. In addition, we renew our objection to the scoping of the purpose and need in a way that arbitrarily, and we, in our view, makes it legally insufficient for purposes of NEPA analysis. We will provide additional

Response to DEIS Comment #1

When the DEIS was published to the project website on July 10, 2020, an oversight in posting the entire appendices to DEIS Appendices B and C was discovered. Less than 24 hours later, MDOT SHA posted the complete appendices. No other changes were made to the DEIS materials posted on July 10, 2020. With respect to the DEIS comment period in general, based on requests from the public, elected officials and other stakeholders, MDOT SHA and FHWA extended the DEIS comment period from 90 days to 123 days. The full DEIS comment period was four months, from July 10, 2020 to November 9, 2020.

Response to DEIS Comment #2

As noted in Chapter 1 of the DEIS, financial viability was a project goal. The DEIS financial analysis was used to compare the six Build Alternatives to each other to determine which alternatives would be more likely to be financially viable. Refer to DEIS pgs. 2-48-49.

Contrary to the comment concerning the potential need for public revenues to support the project, the P3 Solicitation process supports the agency's financial viability analysis.

In February 2020, a Progressive P3 solicitation was initiated seeking phase developers interested to design, build, finance, operate, and maintain the proposed managed lanes. MDOT and MDTA, with participation from local jurisdictions, developed a shortlist of four highly qualified Proposers and three of the four shortlisted firms submitted proposals to enter into the Phase P3 Agreement for Phase 1 to assist in the pre-development work and deliver Phase 1. In February 2021, MDOT and MDTA identified the Selected Proposer that could best deliver the project in a manner most advantageous to the State. On August 11, 2021, in accordance with Maryland law, MDOT and MDTA received approval from the Maryland Board of Public Works to award the Phase 1 P3 Agreement to the Selected Proposer/Developer. As part of their internal evaluation process, the Selected Proposer/Developer completed their own financial analysis to confirm the project was financially viable for them to bid on. Their proposal assumed no taxpayer dollars would be required for the project. Finally, the DEIS analysis openly presented a summary of potential financial risks using a reasonable range of project costs and prevailing interest rates.

Response to DEIS Comment #3

Your comment regarding the adequacy of the DEIS LOD evaluation does not accurately reflect the process used to evaluate all project impacts and does not represent the requirements of NEPA. MDOT SHA employed a conservative approach to defining the LOD for all the DEIS Build Alternatives and Preferred Alternative, taking into account access points and a constructability analysis. The LOD represents the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, stream stabilization, and related activities to the proposed roadway and interchange improvements can occur. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. Moreover, the methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. For complete graphic descriptions of the Preferred Alternative LOD across the entire span of study limits, see **FEIS, Appendix E**, Environmental Resource Mapping.

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

written comments by the written deadline, but I will wrap it up there and refer you to the written submissions that we have already made for more detail on many of these comments. Thank you.

The LOD included a full spectrum of project elements associated with all of the DEIS Build Alternatives and the Preferred Alternative, and includes:

- Profile adjustments and roadway shifts due to mainline widening;
- Interchange ramp relocation, reconfiguration, and tie-ins due to mainline widening;
- Reconstruction of I-495 and I-270 mainline and interchange ramp bridges over water and roadways;
- Full replacement of the American Legion Bridge;
- Direct access ramps and exchange ramps for access to the HOT managed lanes;
- On-site drainage and stormwater management, including swales, ponds, and large facilities along the roadside and within interchanges;
- Relocation of existing streams, where determined to be feasible;
- Culvert extensions, auxiliary pipes, and outfall stabilization areas;
- Noise barrier replacement/construction;
- Utility relocations;
- Avoidance and impact minimization of adjacent land uses such as: streams, wetlands, historic properties, parks, and private properties; and
- Construction access, staging, materials storage, grading, clearing, and erosion and sediment control.

The reasonableness of the LOD applied for determining resource impacts was further reinforced by performing a constructability analysis. This ensured that adequate area within the LOD was provided to construct all project elements, including bridges, retaining walls, noise walls, drainage structures, and interchange ramps, among others. Refer to **FEIS, Appendix E**, Environmental Resources Mapping.

Response to DEIS Comment #4

The FHWA and MDOT SHA developed the Study's Purpose and Need through a collaborative process with other federal, state and local agencies and the public that included examination of multiple transportation and regional planning studies that had been conducted over the past 20+ years. As detailed in the Purpose and Need statement (**DEIS, Appendix A**), these studies demonstrated the need in the National Capital Region for a synergistic system of transportation solutions as this region is the most congested in the nation based on annual delay and congestion per auto commuter statistics. The Purpose and Need did not preclude or prevent consideration of non-tolled lane alternatives during the course of the study. In sum, both the process to establish the Purpose and Need and the manner in which the agencies considered potential alternatives in light of that Purpose and Need were conducted in accordance with well-established federal regulations.

This examination of previously identified solutions to congestion challenges on I-495 and I-270 was made in the context of existing environmental and socioeconomic conditions. The final Purpose and Need established for the Study also reflected goals related to non-highway project elements, which have been incorporated into the final proposed action including environmental responsibility and financial viability.

Consistent with federal statutes, regulations and guidance and the Council on Environmental Quality (CEQ) NEPA regulations, the Study's Purpose and Need briefly describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The Study's Purpose and Need statement describes a set of problems arising out of the severe congestion on I-495 and I-270 as well as the geographic, transportation and financial needs for the agency to consider some form of managed lanes as a proposed solution.

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Chapter 1 of the DEIS laid out the Purpose and Need: “the purpose of the Study is to develop a travel demand management solution(s) that addresses congestion, improves trip reliability on I-495 and I-270 within the Study limits, and enhances existing and planned multimodal mobility and connectivity.” MDOT SHA identified five key needs related to this underlying purpose: (1) accommodate existing traffic and long-term traffic growth; (2) enhance trip reliability, (3) provide additional roadway choices, (4) accommodate homeland security, and (5) improve movement of goods and services.

Concerns with congestion on I-495 and I-270 and planning to accommodate anticipated future growth have been the subject of numerous studies conducted by the Maryland Department of Transportation (MDOT), Virginia Department of Transportation (VDOT), and regional planning agencies for many years. These studies reflect how the Washington metropolitan area has continued to experience considerable growth in population and employment. Specifically, population in the study area has increased from 14.6 percent in Montgomery County and 20.1 percent in Prince George’s County between 2000 and 2020. Continued growth is anticipated as Metropolitan Washington Council of Governments (MWCOG) estimates that between 2020 and 2045, the population in Montgomery County and Prince George’s County will increase approximately 16.3 percent and 7.9 percent, respectively. Additionally, this area is one of the most intensive employment, residential and transportation corridors in the State. Virtually all of these studies reflect, in part, some of the operational and/or engineering alternatives that are included in the DEIS and SDEIS. Specifically, these studies, dating back to 2004, evaluated various options of building managed lanes along these highways and means to connect that additional capacity to other regional transportation facilities. Importantly, these studies also considered various transit improvements, including major projects such as the Purple Line which is currently under construction. None of the various analyses supported the principle that transit and/or multi-modal transportation options by themselves, could alleviate traffic congestion or accommodate anticipated future demand. See **DEIS, Appendix A**.

At the same time Maryland conducted these evaluations and feasibility studies, VDOT proceeded with its own studies and projects on the other side of the Potomac River across the American Legion Bridge and has built a managed lane system, currently operating between Fairfax County and Fredericksburg. Current plans include extending those lanes in Virginia to the American Legion Bridge. Ultimately, these studies and projects in Maryland and Virginia culminated with Metropolitan Washington Council of Governments (MWCOG) Transportation Planning Board’s (TPB) approval in 2017 of a set of 10 regional initiatives for further study, which included analyzing managed lanes on the portions of I-495 and I-270 included in the MLS. Then, in October 2018, the TPB approved the “Vision 2045” plan which included a variety of financially constrained projects related to potential toll lanes on I-495 and I-270. Id. at 8.

In addition to this wealth of historical consideration of transportation solutions for these highway corridors, development of the Study’s Purpose and Need was done in consideration of public and agency comments received during the scoping process and also incorporated input through inter-agency collaboration from the full range of federal, state, and local agencies involved in this study. Eventually, all Cooperating Agencies participating in the Study, except for the Maryland-National Capital Park and Planning Commission, concurred with the definition of the Purpose and Need. See generally, DEIS and SDEIS, Chapter 1.

Regarding a Standalone Transit Alternative Not Being Carried Forward:

Pursuant to the CEQ regulations and FHWA guidance, agencies perform an assessment of potential project alternatives to determine if they warrant being advanced to detailed study in an EIS. The screening of alternatives is an essential part of the NEPA process designed to focus attention of the public, stakeholders and the agency

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decision-makers on the actions most likely to address the Purpose and Need and to avoid wasteful analysis on options that could not address the identified fundamental needs. This process involves application of the Study’s established Purpose and Need elements, as well as other criteria related to transportation planning and the sources of financing a proposed action. Refer to **DEIS, Appendix B**.

For the Study, the alternatives screening process first focused on four transportation assessments. Each of the preliminarily identified alternatives were evaluated on whether or how they addressed: (1) existing traffic and long-term traffic growth, (2) trip reliability (dependable travel times); (3) additional roadway travel choice, and (4) ease of usage for travelers. In addition, the Purpose and Need elements were applied to evaluate whether each alternative could: (1) accommodate population evacuations or emergency response, (2) improve the movement of freight, services and commuting employees, (3) provide a revenue source, (4) promote multimodal connectivity, and (5) address expected environmental impacts. These criteria were applied to all 15 preliminary alternatives to gauge how they would be expected to satisfy the project Purpose and Need. Refer to **DEIS, Appendix B**.

Based on past regional studies and public comments, MDOT SHA considered four separate, standalone transit alternatives: 14A (heavy rail), 14B (light rail), 14C (fixed guideway Bus Rapid Transit, off current alignment), and 15 (dedicated Bus Managed Lanes on existing alignment). None of these alternatives would address existing traffic or long-term traffic growth on I-495 and I-270.

With respect to either heavy or light rail alternatives, the 2002 Capital Beltway/Purple Line Study (2002 Study) analyzed circumferential rail corridors (approximately 42 miles) along the Capital Beltway Corridor. This analysis concluded: “Congestion on the Beltway itself as well as demand on the other transportation facilities is so great that no single highway or transit improvement will provide significant relief to the long-term demand,” (2002 Study, page S-17). It was also recommended that studies of the highway and transit alternatives be conducted separately because transit operates more efficiently if it serves areas where people live and work. Refer to **DEIS, Appendix B**. This analysis also stressed the basic fact that people do not live and work “on the Beltway” and that transit options generally service users by directly connecting activity (housing and work) locations.

Importantly, major standalone transit projects in the study area have been approved and are in the process of being constructed. For example, the US Federal Transit Administration approved the Record of Decision for the Purple Line project in 2014. The project, a 16-mile two-track light rail system, accommodates significant demand for transit within this priority corridor and offers connections between two ends of the WMATA Red Line, and to key destinations such as the downtown Silver Spring Transit Center and the University of Maryland, inside the Capital Beltway. The NEPA study for the Purple Line also considered a heavy rail option, but that alternative was dropped from detailed review because of several factors that are also present in this project: prohibitive capital costs, lack of overall cost-effectiveness due to high construction costs, as well as greater environmental impacts related to the intensity of construction of new heavy rail infrastructure.

While the standalone transit alternatives were screened from detailed study, MDOT SHA retained multiple transit elements as part of the Build Alternatives in the DEIS that were ultimately incorporated into the Preferred Alternative. (Refer to **Section 9.3.1**, Purpose and Need response.) With respect to the preliminary bus alternatives, for example, because buses will be able to use the new managed lanes, transit trips will be improved by providing a free flow condition for such service with no additional property and environmental impacts associated with a fixed guideway Bus Rapid Transit (BRT) off alignment alternative. This could help revive express bus service from Montgomery County to Tysons Corner, Virginia, two significant activity and economic centers. Moreover, this aspect of the proposed action also satisfies other Purpose and Need elements by increasing travel speed and assuring greater trip reliability for bus service.

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Regarding the MD 200 Diversion Alternative Not Being Carried Forward:

Following the Spring 2019 Public Workshops and agency meetings, several Cooperating and Participating Agencies requested that MDOT SHA evaluate an alternative that would provide an alternate route for travelers to use MD 200 (Intercounty Connector) instead of the top side of I-495 between I-270 and I-95 to avoid or reduce impacts to significant, regulated resources and residential relocations to that section of I-495. Refer to **DEIS, Appendix B**.

The MD 200 Diversion Alternative had several key features: (1) no widening or capacity improvements along I-495 between the I-270 West Spur and I-95; (2) consideration of Transportation System Management (TSM)/Transportation Demand Management (TDM) improvements along I-495 between the I-270 East Spur and I-95; (3) two managed lanes added in each direction on I-495 from south of George Washington Memorial Parkway to the I-270 West Spur, and in each direction on I-495 between I-95 and west of MD 5; (4) conversion of the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane on I-270 and the addition of one HOT managed lane in each direction on I-270, resulting in a two-lane managed lanes network on I-270; and (5) two managed lanes added in each direction of I-95 between MD 200 and I-495. Refer to **DEIS, Appendix B**.

Importantly, this new Screened Alternative was developed and analyzed with input from the agencies to the same level of detail and using the same approach for the anticipated limits of disturbance as all other Screened Alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need, again, using the same methodology that was used for the Screened Alternatives. The methodology included a three-step process:

- A regional forecasting model was developed for the MD 200 Diversion Alternative using the MWCOG model, the model used by MDOT SHA and other transportation agencies to evaluate projects in the Washington, DC metropolitan area;
- Outputs from the MWCOG model were used to develop balanced traffic volume projections for the design year of 2040 for each roadway segment and ramp movement within the Study limits;
- Traffic simulation models for the MD 200 Diversion Alternative were developed using VISSIM software to determine the projected operational performance in several key metrics.

Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the Study's Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed TSM/TDM measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has adequate capacity to accommodate the potential for diverted traffic, it was anticipated that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.

Traffic analysis was performed using the same key traffic metric applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput; and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Diversion Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. In fact, the MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to **DEIS, Chapter 2** and **DEIS, Appendix B**.

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Therefore, even recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA’s final conclusion, concurred with by the FHWA, was that this alternative would not adequately meet the established Purpose and Need. Although the Preferred Alternative, as described in the SDEIS and this FEIS, also avoids improvements to the topside of I-495 and provides less improvement to traffic operations when compared to the DEIS Build Alternatives, it was chosen based in part in response to comments received from the public, partner agencies and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east sides of I-495. While MDOT SHA and FHWA recognize that congestion would be present during the afternoon peak period on I-270 northbound and the I-495 inner loop in the design year 2045 due to congestion outside of Phase 1 South, the Preferred Alternative would provide tangible operational benefits to the system including significantly increasing throughput across the American Legion Bridge and the southern section of I-270 while reducing congestion. Refer to **SDEIS Chapter 3, Section 3.3** and **FEIS Chapter 4, Section 4.3**.

United States Army Corps of Engineers - DEIS Comments

Note: The first 8 pages of the 12/3/2020 USACE Letter is a summary of other agency and public comments they received. Their summaries are not reflected in this tracking table as MDOT SHA has shared the final responses to all agency and public comments with USACE.

No.	Page	DEIS Section	Comment	Response
1	General	General	The Corps would request both permitting agencies be including in any discussion covering comments	A meeting was held with the USACE and MDE to specifically discuss USACE and MDE's substantive comments on the DEIS on February 10, 2021. A response to all substantive comments received on the DEIS have been responded to in the FEIS. Refer to Chapter 9 in the FEIS.
2	General	General	Please include both agencies in any response to comments independent of the NEPA and JPA process	Responses to comments not relevant to the DEIS or Draft JPA are not responded to in the FEIS. A response to all substantive comments received on the DEIS have been responded to in the FEIS. Refer to Chapter 9 in the FEIS.
3	General	General	Please update the FEIS, as appropriate, in sections where information and coordination are listed in the DEIS as pending or ongoing	The FEIS has been updated to document the additional design and supporting analysis and relevant coordination that has occurred since the publication of the DEIS.
4	General	General	Please update all relevant sections of the FEIS and attachments to discuss the effect that COVID-19 has on the proposed MLS project, including any potential impact to the proposed project's NEPA Purpose and Need.	Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic.
5	General	General	Please include details regarding revised traffic studies, and address public comments concerning traffic modeling deficiencies, potential increases in latent and induced demand, changes in commuting due to COVID-19, and any potential impact to the proposed project's NEPA Purpose and Need.	The traffic models have taken these elements into consideration. Refer to Chapter 9, Section 3.1 for a response on Purpose and Need and effects of the pandemic. Refer to Chapter 9, Section 3.4.B for a response to traffic modeling and induced/latent demand.
6	General	General	Please provided more details on constructability throughout the FEIS and relevant attachments.	Refer to FEIS Chapter 3, Section 3.1.8 and FEIS Chapter 6 for a discussion on constructability assumptions.
7	General	General	Please ensure all impact totals and required mitigation totals match throughout the FEIS and attachments.	The impacts are presented differently in the NRTR, DEIS, and JPA. The NRTR and JPA presented the impacts by jurisdiction, whereas the DEIS presented the overall impacts to all features, regardless of jurisdiction. Regardless, the impacts have been updated in the SDEIS, FEIS, and the revised JPA which all focus on Phase 1 South.
8	General	General	Please address the effects that will results from utility relocation throughout the FEIS and attachments, particularly related to impacts to resources and costs associated with relocations. Please address how the relocations will be paid.	The limit of disturbance in the DEIS, SDEIS, and FEIS all included consideration of utility relocations; therefore, any resources impacts that result from utility relocations are accounted for in the current quantifications. Refer to Chapter 9, Section 3.4.M for a response to impacts to utilities and associated costs.

No.	Page	DEIS Section	Comment	Response
9	General	General	Please provide additional information regarding how the project will be phased, the timing of those phases, and how that relates to the current JPA.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and JPA/permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative includes two new, high-occupancy toll (HOT) managed lanes on I-495 in each direction from the George Washington Memorial Parkway to east of MD 187 and conversion of the one existing high-occupancy vehicle lane in each direction on I-270 to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. The Preferred Alternative includes no action and/or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County.</p>
10	General	General	Please provide additional details on how the P3 process may be revised based on lessons learned from the Purple Line project. For example, would the proposed project need to provide financial assurances to a selected P3 concessionaire?	Refer to Chapter 9, Section 3.5 for a response to the P3 Program or Board of Public Works and Project Costs.
11	General	General	Please updated the information regarding the WQC process in Maryland and Virginia.	The 401 WQC process and schedule were determined in coordination with MDE, USACE, and EPA. The 401 WQC Request for Maryland was submitted in May 2022. The Virginia 401 WQC was requested on April 2022 with the Virginia Water Protection Permit application.
12	General	General	Analysis for the American Legion Bridge should include a transit option (at a minimum like the design for Woodrow Wilson Bridge for future transit use), avoidance and minimization of impacts to Plummers Island, and discuss how impact to the National Park Service C&O Canal will be handled.	<p>Regarding accommodating transit on the ALB, Refer to Chapter 9, Section 3.3.D for a response to Analysis of Alternatives Retained for Detailed Study.</p> <p>Refer to Chapter 9, Section 4C for a response to analyses of parklands and historic resources, including efforts to avoid and minimize.</p> <p>Refer to Chapter 6 and Appendix G, the final Section 4(f) document for information on how the National Park Service Chesapeake and Ohio Canal will be impacted and mitigated.</p>
13	ES-5	Executive Summary	Executive Summary. Under the definition of Limits of Disturbance (LOD) on Page ES-5, please consider adding language regarding a continued commitment to avoidance and minimization.	<p>As described in the Supplemental DEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only.</p> <p>The Preferred Alternative presented in the SDEIS was refined based on detailed survey information, an assessment of constructability and permanent and temporary impacts, as well as avoidance and minimization efforts resulting from extensive interagency coordination. The SDEIS presented updated information based on the updated Preferred Alternative (Phase 1A South) and additional coordination that occurred in the 10 months following publication of the DEIS. The FEIS reflects further design refinements, minimizations, and details, including final mitigation and commitments of the Preferred Alternative, many of which directly responded to public comments.</p>

No.	Page	DEIS Section	Comment	Response
14	7	2.3	Chapter 2. Section 2.3 page 7. Please define Fiscally Constrained.	Financially constrained means that the metropolitan transportation plan, TIP or STIP, includes sufficient financial information to demonstrate that projects in the plan can be implemented using committed, available or reasonably available revenue sources, with a reasonable assurance that the federally supported transportation system is being adequately operated and maintained. (http://onlinepubs.trb.org/onlinepubs/archive/NotesDocs/NCHRP08-36(76D)_FiscalFR.pdf)
15	14	2.5.2	Section 2.5.2. page 14. The Purple Line information needs to be updated including the new completion date	Comment noted that the Purple Line completion date has changed. This reference to the Purple Line completion date will not be used in the FEIS.
16	18-19	2.5.3	Section 2.5.3. page 18-19 The last paragraph in this section was not vetted by the Corps prior to inclusion in the DEIS and as written belongs in the Corps permit decision section not here. The applicant is free to make a statement about the financial viability of the project but should not infer the Corps has made a final determination of practicability based on financial considerations.	The referenced text stated "would not be considered a practicable alternative <i>in the context</i> of the USACE permit." It did not infer the Corps has made a determination but rather the author did not anticipate the alternative would meet the Corps' criteria. Additionally, this language was included as one of many reasons why Alternative 5 did not meet the Study's Purpose and Need and was not retained as an alternative carried forward in the DEIS.
17	37-38	2.7.2	Section 2.7.2. pages 37-38. Please update the culvert section in the FEIS to reflect any agreed upon changes in approach.	A discussion of the augmented culverts has been included in the revised AMR. Refer to FEIS, Appendix N.
18	44	2.7.5	Section 2.7.5. page 44. Please update the tolling information, as appropriate, with the results of toll range setting process.	MDTA approved the toll rate ranges in November 2021. The tolling information for the Phase 1 South project has been updated in the FEIS. Refer to Chapter 3, Section 3.1.9.
19	44	2.7.5.d	Section 2.7.5.d. page 44. states that dynamic tolling will minimize environmental impacts. Generally, separated toll lanes require a larger roadway footprint than similar general purpose lanes (e.g., for independent access/exit and separation barriers). Please provide an explanation regarding how dynamic tolling minimizes environmental impacts, including which environmental impacts are minimized.	The environmental impacts referenced in this section were related to air quality and congestion management, not to environmental impacts associated with the roadway footprint.

No.	Page	DEIS Section	Comment	Response
20	45	2.7.6	Section 2.7.6. page 45. Is there any analysis of how much transit would be required to meet the proposed project's NEPA Purpose and Need (i.e., to provide the provide traffic relief similar to the build alternatives)? Also, is there any data on the utilization of bus rapid transit (BRT)?	<p>Non-road alternatives, such as light rail and heavy rail, were analyzed as a standalone alternative as part of the Preliminary Range of Alternatives and as set forth in greater detail in the DEIS Appendix B. It was concluded that a standalone transit alternative could not meet the need of addressing existing and long-term traffic growth on I-495 and I-270. MDOT has studied the Region's transportation needs as a whole and transit options in particular have been studied and plans developed over the past few decades. In 2002, a study of I-495 considered both transit and highway improvements and it was determined that both were needed to address the significant congestion. The light rail alignment recommended from these studies moved forward first. In 2016 the 16 -mile Purple Line light rail, circumferential to the Capital Beltway, began construction. The I-495 & I-270 MLS includes highway improvements that would compliment the light rail system currently under construction and the Preferred Alternative includes transit elements to reduce regional congestion and further supports one of several aspirational goals of the National Capital Region's long-range transportation plan by expanding the express highway network.</p> <p>Refer to Chapter 9, Section 3.2 for a response to Screening of Preliminary Alternatives Process and Section 3.3 for a response to Alternatives Not Retained for Detailed Study.</p>
21	45	2.7.6	Section 2.7.6 page 45. Please clarify which barriers could be addressed and if this also supports any of the proposed project's NEPA Purpose and Need (e.g., improved trip reliability for bus transit).	Refer to Chapter 9, Section 3.3.D for a response to Analysis of Alternatives Retained for Detailed Study.
22	47	2.7.8	Section 2.7.8. page g 47 Phase I of the P3 should be defined to avoid confusion between Phase I of the MLS and the Public Works Board approval/awarding of Phase I for the overall P3 program.	See response to Comment #9. Also please refer to Chapter 9, Section 3.5 for information on the BPW approval and the P3 process.
23	General	3.3	Chapter 3. Section 3. Please explain why Active Traffic Management (ATM) is no longer included in this section.	Active Traffic Management (ATM) was included as part of Alternative 2 (TSM/TDM), but this alternative was dropped during the screening phase. For additional detail, refer to Chapter 9, Section 3.2 for a response to Screening of Preliminary Alternatives process.
24	82	4.2	Chapter 4. Section 4.12 page 82. Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land.	Park mitigation on NPS property is summarized in Chapter 6 of the FEIS and in greater detail in the Final Section 4(f) Evaluation Appendix G.
25	87	4.13	Section 4.13 Page 87. Please update Section 4.13 to include stormwater locations. Also, please update the Watershed and Surface Water Quality to discuss how proposed stormwater management will mitigate water quality impacts.	The Stormwater discussion in Chapter 3, Section 3.1.6 of the FEIS has been updated to reflect the additional analysis completed on the Preferred Alternative. The Surface Water Quality Section in Chapter 5, Section 5.13 has also been updated.

No.	Page	DEIS Section	Comment	Response
26	General	Appendix B	Appendix B. The analysis for MD 200 has several inconsistencies from the other build alternatives that should be explained. For example, it is not explained why the two-lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs is also congested and any improvements would result in minimal impacts to parkland or residences. Also, the Interchange Reconfigurations bullet indicates that TSM/TDM were not considered due to potential environmental and property impacts, despite these impacts being included in the other retained alternatives.	<p>As explained in the DEIS, the intent of the MD 200 Diversion Alternative was to provide two managed lanes per direction from the American Legion Bridge to I-370 (and MD 200), consistent with the other Build Alternatives, along with improvements to I-95 between MD 200 and I-495, and I-495 from I-95 to west of MD 5 (consistent with the other Build Alternatives). The MD 200 Diversion Alternative was presented as an alternative to avoid environmental and community impacts on the top side of I-495. The MD 200 Diversion Alternative would include work along I-495 east of the I-270 West Spur to transition the proposed lanes back to the existing conditions. If the lanes were extended further to the East Spur, then the lane transition would have to occur along the section of I-495 adjacent to the parkland that the alternative was intended to avoid. Similarly, work would occur on the I-270 East Spur north of I-495 to develop manage lanes (northbound) or transition back to the existing section (southbound) after/before it reaches I-495 to avoid impacts to the parkland just east of the East Spur. The limits of the proposed improvements were shown on Figure 6-8 of DEIS Appendix B (Alternatives Technical Report).</p> <p>As noted in the DEIS, the MD 200 Diversion Alternative does consider transportation system management/transportation demand management (TSM/TDM) improvements along I-495 between the I-270 East Spur and I-95 because they would cause impacts to the properties and parkland along I-495 that the alternative was intended to completely avoid.</p> <p>Refer to Chapter 9, Section 3.2.B for a response to Alternatives Not Retained for Detailed Study, including the MD 200 Diversion Alternative.</p>
27	General	Appendix D	Appendix D. The traffic analysis should be revised to address the various comments received especially the traffic analysis and comments provided by Mr. Norman Marshall of Smart Mobility.	Refer to Appendix T for the Sierra Club response and the Coalition for Smarter Growth response for a response to Mr. Marshall's traffic analysis.
28	General	Appendix E	Appendix E. The Environmental Justice analysis should be revised to address the various comments received during the public comment period.	Refer to Chapter 9, Section 3.4.D for a response to Environmental Justice and equity concerns. Additional information on social equity and EJ community outreach and how MDOT SHA has considered them throughout the Study, including formation of the EJ Working Group, is provided in Chapter 5, Section 5.2.1 and Appendix F.
29	General	Appendix L.	Appendix L. Natural Resources Technical Report Appendix A. The impact tables should include all the build alternative evaluated.	The NEPA technical reports were written at a moment in time when Alternative 9M was not under consideration. All other build alternatives are included in the NRTR and the other NEPA technical reports. Since the DEIS, the Preferred Alternative has been identified, so the comparison with Alternative 9M is not necessary per the comment.

No.	Page	DEIS Section	Comment	Response
30	General	General	As previously stated in our November 5, 2020 letter, the Corps ability to evaluate and authorize a proposed project is contingent upon receiving information on all project impacts to waters of the U.S. The Corps can evaluate the entire 48-mile transportation project. However, fundamental to permitting the entire project, the Corps requires basic information on impacts to all waters of the U.S., including jurisdictional wetlands, for the complete project. The information required for each impact area includes the location, limit of disturbance, estimated quantity of impacts (areal extent in square feet/linear feet), and type of impact (e.g., fill, culvert, stormwater management pond, stream restoration or stabilization, etc.). This information must be including in a revised JPA submittal. Please note that this additional information may trigger an additional public and/or agency coordination period with a subsequent comment response/information request. The revised JPA submittal must also include Phase II compensatory mitigation plans for the proposed permanent impacts to waters of the U.S., including jurisdictional wetlands. Also, any DA authorization is contingent upon the applicant receiving all other applicable approvals including Section 401 Water Quality Certification (WQC). Please be aware of the time requirements for 401 WQC process and any final permit decision making requirements under the One Federal Decision process.	All impacts to wetlands and waterways within Phase I South are now included in the revised JPA. As described in the Supplemental DEIS, the Preferred Alternative was identified to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. Additionally, the project is no longer required to meet the One Federal Decision process because it was rescinded in early 2021.
31	General	General	The Corps is concerned that several of the broad comments and issues raised during the comment period may affect the MLS's NEPA Purpose and Need and the screening criteria used to evaluate alternatives (e.g., traffic analysis and environmental justice). While all public comments are important and need to be addressed in your comment response and NEPA documentation, it is essential that there is in-depth analysis to support any selected preferred alternative for the proposed project and the elimination of other alternatives. Therefore, considering these comments and concerns, the Corps is requesting you address the enclosed comments and our additional information request. Also, please copy furnish the Corps in your response to MDE's comment letter, including their additional information request, and provide MDE a copy of your response to our comments.	MDOT SHA and FHWA identified Alternative 9 Phase 1 South as the Preferred Alternative after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The FEIS presents the factors that support the selection, plus additional environmental analyses and refinements to the Preferred Alternative, including commitments and mitigation measures to be carried forward during final design and construction. This FEIS, including justification for selection of the Preferred Alternative meets the standards of all applicable Executive Orders, environmental laws, and implementing regulations. The detailed discussion of impacts and mitigation for these unavoidable impacts of the Preferred Alternative are presented in Chapter 5 of the FEIS. The project mitigation and commitments are presented in Chapter 7 of the FEIS. A response to all substantive comments received on the DEIS and the SDEIS have been responded to in Chapter 9 of the FEIS. The comment response to MDE's DEIS comments will be provided to the USACE as well.
32	General	General	In accordance with DA regulations, this office provides applicants with the opportunity to furnish proposed resolutions or rebuttals to all objections and comments received. In order for us to more fully consider the responses we received, and to enable us to assess the total impacts of the project and continue with our evaluation, a response regarding each comment, concern, or recommendation is requested along with a preferred alternative recommendation and ultimately a revised JPA and revised NEPA document. Please provide this office with your response to the enclosed comments and this letter, by March 15, 2021. If additional time is necessary, please advise this office. Please send your electronic response to john.j.dinne@usace.army.mil and copy furnish MDE (steve.hurt1@maryland.gov). The information requested is to fulfill the requirements of Corps regulations, the Clean Water Act Section 404(b)(1) Guidelines, and the Corps public interest review process. This information will be used to render a final Corps permit decision.	USACE provided concurrence on the Preferred Alternative (Alternative 9-Phase 1 South) conditioned upon the receipt and evaluation of the updated Study including the previously requested information to address comments raised during the initial Public Comment Period. DEIS comment responses were provided to USACE on February 3, 2021 to fulfill this requirement.

UNITED STATES ARMY CORPS OF ENGINEERS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MD 21201-2930
December 3, 2020

Operations Division

Ms. Caryn Brookman
Environmental Program Manager
I-495 & I-270 P3 Office
707 North Calvert Street, P-601
Baltimore, Maryland 21202

Dear Ms. Brookman:

This is in reference to your application **CENAB-OPR-MN (MDOT SHA/I-495 I-270 Managed Lane Study) 2018-02152-M15** for the I-495 & I-270 Managed Lanes NEPA Study to develop a travel demand management solution(s) that addresses congestion, improves trip reliability on I-495 and I-270 within the project limits and enhances existing and planned multimodal mobility.

Due to the volume of comments received this letter provides only a partial summary of the comments received in response to the U.S. Army Corps of Engineers (Corps) and Maryland Department of the Environment (MDE) joint public notice (PN 20-42) and joint virtual Corps/MDE Public Hearing held on August 25, 2020. The Corps has also reviewed the testimony of the other three virtual and two in-person public hearings. Further, this letter sets forth the Corps request for additional information concerning the project.

Background

The I-495 & I-270 Managed Lanes Study (MLS) National Environmental Policy Act (NEPA) is being conducted under the One Federal Decision process which requires cooperating Federal agencies to provide any permit decisions within 90 days of the final NEPA decision document. Based on the proposed impacts of the six build alternatives under consideration in the Draft Environmental Impact Statement (DEIS), the MLS is being evaluated under DA Individual Permit (IP) procedures. The Corps' evaluation of a Section 404 permit application is a two-part test, which involves determining whether the project complies with the Clean Water Act Section 404(b)(1) Guidelines (Guidelines) and the Corps public interest review.

The fundamental precept of the Guidelines is that dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in

-2-

combination with known and/or probable impacts of other activities affecting the ecosystem of concern [40 CFR 230.1(c)]. In addition, one of the primary requirements of the Guidelines is that no discharge can be permitted if there is a practicable alternative with less adverse impact on the aquatic environment provided the alternative does not have other significant adverse environmental consequences [40 CFR 230.10(a)]. The alternatives test is applied more rigorously (i.e., alternatives are presumed to exist) for projects that are proposed to be located in special aquatic sites when the project is not water dependent. Under Section 404, only the least environmentally damaging practicable alternative (LEDPA) can receive DA authorization. Note that an alternative is practicable if it is available and capable of being done after taking into consideration cost, logistics, and existing technology in light of overall project purposes.

The decision whether to issue a DA permit is also based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended uses on the public interest. This is known as the public interest review [See 33 CFR Part 320.4.] The evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing and balancing of the benefits which reasonably expected to accrue from the project, balanced against the reasonably foreseeable detriments. Among the factors that must be evaluated as part of the public interest review include: conservation, economics, aesthetics, general environmental concerns, wetlands and streams, historic and cultural resources, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, energy needs, safety, food and fiber production, mineral needs, water quality, consideration of property ownership, and in general, the needs and welfare of the people. The Corps evaluates all comments received in the public interest review. All comments are evaluated for their merit and provided to the applicant for response. Please consider and fully address the public interest review factors and the Corps requirements of a LEDPA in your response to these comments.

The Corps has determined that your basic project purpose of proving transportation improvements along I-495 and I-270 corridors is non-water dependent (i.e., the project does not require siting within a special aquatic site to fulfill the basic purpose of the project). Therefore, upland alternatives to improve water quality, which do not involve impacts to special aquatic sites, are presumed to exist unless clearly demonstrated otherwise.

Public Notice Comments

In response to the Corps/MDE joint public notice for the Joint Permit Application (JPA) and the MLS DEIS (including the appendices and supporting documentation), this office received letters and e-mails from the public, nonprofit organizations, businesses, and Federal, State, and local agencies. In addition, MDE has already provide comments directly to you in their November 9, 2020 letter.

-3-

In general, public comments received were predominantly against the proposed build alternatives and supporting the no build alternative. The public comments supporting a build alternative were split between support for Alternative 9, 9M, and 10. A small portion of public comments supported further exploring the use of MD 200 as an alternative to construction on the northern portion of I-495 (though most did not support extending the managed lanes on I-95 north of the I-495). Some commenters supported reversible lanes on I-270. Support for upgrading the American Legion Bridge was somewhat unique in that it was supported by both commenters in favor of the build alternatives and a small set of commenters against the overall build alternatives. Commenters also wanted the American Legion Bridge design to include a transit option. Some commenters supported the western phase of the MLS and extending work up I-270 to I-70 in Frederick County. Most commenters opposed to the build alternatives expressed a desire to see transit options evaluated and/or the process take a more holistic approach to address transportation needs in the study area. Many of these commenters also felt that transportation demand management should be further evaluated.

Those in opposition to the build alternatives expressed a wide range of concerns. Recurring issues/concerns raised were increases air pollution, impacts to natural resources (streams, wetlands, forest cover), noise, cost/funding and public-private partnership approach, traffic, transparency in the process, impacts to private residences and property values, environmental justice, and cultural resources.

Air pollution comments were common and focused on multiple area of concerns including potential increases of small particulates near homes, recreational areas, and schools to increases in greenhouse gas emission and climate change. Multiple commenters questioned how the project aligned with Maryland's commitment to reduce greenhouse gas emissions and questioned the claims of emission reduction based on fuel efficiency standards (no longer in place) and (potentially unrealized) increase travel speeds. Some commenter tied air quality issues to environmental justice factors expressing concerns that increased air pollution could disproportionately affect low income populations. Overall commenters felt the analysis of potential air quality impacts was insufficient to assess the proposed alternatives.

Impacts to natural resources was another broad category concern. Commenters opposed to the build alternatives were concerned about possible impacts to resources like streams and wetlands, forest, and parklands. Commenters expressed concern that impacts for the build alternatives were not detailed enough including stormwater impacts and compensatory mitigation options to offset impacts. Commenters were also concerned about individual resources and/or areas like Rock Creek or the Henson Creek Trail. As stated above, impacts to open space and parklands were also a major concern. One additional specific concern raised was the potential impacts to Plummerville Island, a unique natural resource located in the Potomac River immediately downstream of the American Legion Bridge. Plummerville Island, now located on U.S. National Park Service land, has been the subject of numerous studies and surveys.

-4-

Overall commenters felt the analysis of potential natural resource impacts was insufficient to assess the proposed alternatives.

Noise abatement concerns were expressed for both during construction and post construction. These concerns are tied into concerns of quality of life and property values. Multiple commenters expressed concerns about noise barriers, noise increases associated with new flyover ramps and/or loss of existing tree screening, and increases in noise affecting their properties and/or public spaces including schools and parks.

Many of the commenters opposed to the build alternatives felt that, especially considering the on-going Purple Line P3 process and the State's contribution to that project, that this proposed project would be partially funded by Maryland and the taxpayers. Commenters also expressed concern that if this were the case (i.e., a proposed project subsidized in part by State funding) then the elimination of some other alternatives from further evaluation was premature. Commenters also expressed concern that the true cost of the proposed project was inaccurate considering the Purple Line P3 experience. Commenters also expressed concern that a P3 approach primarily benefits the private entity/concessionaire and there is little financial incentive for the selected concessionaire of the managed lanes to address general purpose lane traffic congestion. Commenters also questioned the variable tolling amounts and if such a practice prices out commuters less able to pay.

For traffic, a major concern expressed by commenters is the assertion that the traffic analysis is flawed and may not support the elimination of alternatives under the NEPA Purpose and Need. Latent and induced demand, both for the proposed project roadways and the local and arterials roadways, should be better addressed in the model and analysis write-up. Commenters also expressed concerns over VMT, traffic spreading, and roadway capacity estimates and their impact on the traffic model's predictions including the proposed project's NEPA Purpose and Need and benefits analysis. Another major subset of concerns over the traffic analysis was the inherent unknowns of the COVID-19 outbreak and its potential changes to all forms of commuting patterns in the proposed project area. Increased telework opportunities and social distancing concerns have resulting in changes to both mass transit use and driving. Some commenters asserted that a percentage of workers and businesses will continue to allow increased telework opportunities and this potential change in commuting patterns should be analyzed to understand how it may affect the proposed project stated NEPA Purpose and Need. In addition, the ability to utilize telework opportunities is limited to a portion of the workforce. Many workers, including those deemed essential during the pandemic, would continue to commute to work. It is unclear how many of these commuters rely on mass transit options and/or driving. A few commenters acknowledged that mass transit use may also be affected the pandemic. Overall, commenters opposed to the build alternatives expressed a desire for more time to study the impacts of the pandemic and its impacts on commuting patterns in the region. They expressed concern that with so many unknowns it would be premature to make a decision to proceed with a build alternative.

-5-

Multiple commenters expressed concerns about the proposed project's process and transparency. Several commenters raised issues related to the full availability of the DEIS appendices and comment period. Interestingly, many commenters requested more information and analysis in the NEPA process while others indicted the analysis was already too large. As stated above, comparisons to the Purple Line P3 project were numerous, particularly concerning the true project cost; the likelihood of litigation and cost overruns; the limits of Disturbance (LOD), impacts, design, and benefits. In addition, commenters expressed concerns over the lack of information regarding the potential relocation of utilities, upgrade of bridges, and delays/impacts to local roadways and residences associated with construction and operation of the build alternatives. The WSSC water and sewer line relocations was mentioned by name in many comments. Commenters asserting that the billions of dollars to relocate the utilities would be passed on to rate payers.

Comments received concerning environmental justice covered several issues. Some commenters felt the analysis was flawed and/or not comprehensive enough based on the analysis in the DEIS. Commenters also expressed concern the NEPA process had not done enough to engage minority populations, citing turn out at the hearings as one example. As stated above, some commenters were concerned that health-related impacts had the potential to disproportionately affect minority communities. There were also concerns that the for-profit nature of the P3 managed lane approach itself has potential to impact a portion of the public less able to pay to use the managed lanes and therefore subject them to increase traffic congestion in the general purpose lanes (i.e., do managed lanes shift traffic congestion to the portion of the public least able to pay?).

The Corps received numerous public comments concerning direct and indirect impacts to individual properties including residence, businesses, hospitals, public spaces, and community centers (e.g., the local YMCA).

Comments received concerning cultural resources also raised a variety of issues including potential impacts to historic districts and resources including archeological sites. Some commenters felt the lack of detail regarding some of these resources made it difficult to provide meaningful comments.

In addition to comments from the general public, the Corps also received comments from several non-profit organizations and public entities including the City of Greenbelt and the Sierra Club. Comments provided by the City of Greenbelt comments mirror many of the concerns raised in opposition of the project including Maryland National Capital Park and Planning Commission (MNCPPC). The City raises concerns about the project LOD, Section 4(f) evaluation and park impacts, and the traffic analysis. The Sierra Club provided extensive comments on behalf of numerous nonprofit organizations and their members. The Corps will not try to summarize the Sierra Club comments except to say the comments provide additional substance to many of the public opposition comments received by the Corps. Along with the City of Greenbelt

-6-

comments and MNCPPC comments (summarized below at the end of the agency comments) these comments deserve careful consideration and a detailed response in the NEPA documentation.

The following agencies also provided comments:

U.S. Environmental Protection Agency (EPA)

EPA commented that an evaluation of a full range of available or practicable alternatives was lacking in the permit support documentation. EPA recommends that the applicant thoroughly evaluate the project plans to identify upland alternatives and onsite design modifications that will avoid and minimize impacts to aquatic resources to the maximum extent practicable. EPA expressed further concern over stormwater management and culvert evaluations in the documentation and stressed the need for further avoidance and minimization efforts to avoid impacts to aquatic resources including fostering aquatic organism passage through crossings. EPA recommends a thorough evaluation of the project's potential to cause or contribute to significant degradation of the aquatic ecosystem and ensure that measures are undertaken to avoid and minimize the potential of secondary and cumulative impacts. EPA provides specific recommendations for consideration of several types of sensitive aquatic resource area, Plummers Island, culvert crossings, and cumulative impact analysis. EPA also commented the environmental information provided in the permit application lacks a full resource characterization of the onsite resources proposed to be impacted. EPA stated the baseline information is important in not only assessing the impacted resources but also in identifying avoidance and minimization opportunities, assessing secondary and cumulative impacts, and evaluating appropriate mitigation for unavoidable impacts. EPA also makes several recommendations concerning the compensatory mitigation for the proposed project. The EPA comments and specific recommendations will be included as an attachment to this letter.

U.S. Fish and Wildlife (FWS)

FWS provided general comments concerning on-going Section 7 consultation and compensatory mitigation site review along with specific mitigation site comments. The FWS comments and specific recommendations will be included as an attachment to this letter.

National Marine Fisheries Service (NMFS)

NMFS provided several recommendations pursuant to the Fish and Wildlife Coordination Act due to concerns about potential impacts to migratory fish, including a recommendation that consultation with us be reinitiated during the design phase. NMFS primary concern is related to impacts to areas where the existing roadways cross perennial streams that provide spawning habitat and/or migration corridors for anadromous fish. Specifically, perennial streams and rivers provide important habitat for anadromous fish such as alewife (*Alosa pseudoharengus*), blueback herring (*A. aestivalis*) and American shad (*A. sapidissima*), which use the river including the areas in and around the proposed project site as migratory, spawning, nursery, resting, and foraging habitat. Specific design of each of these crossings has yet to be determined,

-7-

but a suite of avoidance/minimization approaches have been identified to offset impacts to migratory fish. These include avoiding in-water work during the period in which migratory fish are likely to be present (March 1 – June 15), maintaining adequate passage zones for aquatic life, and examining potential impacts to fish passage where the corridor crosses streams with relatively large (i.e., drainage area upstream of crossing \geq 132 acres) streams. While these approaches do largely address NMFS concerns, they offered additional information/guidance to further ensure that impacts to these species are minimized to the extent practicable. The specific NMFS information will be included as an attachment to this letter.

Commonwealth of Virginia Department of Conservation and Recreation (DCR)

DCR letter provided comments for the Division of Planning and Recreation Resources, the Division of Natural Heritage, and the Division of Dam Safety and Floodplain Management. The comments address potential impacts to protected lands, species, and the floodplain. Specific comments in the letter will be included as an attachment to this letter.

Maryland Department of Natural Resources (DNR)

DNR reviewed the Draft Environmental Impact Statement and Draft Section 4(f) Evaluation and provided comments. DNR has also reviewed the Joint Federal/ State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland and provided comments on June 2, 2020; July 10, 2020; November 4, 2020; November 6, 2020 to MDE on the proposed project impacts and the stream and wetland mitigation sites. Copies of this correspondence will be included with this letter. DNR has provided comments for all stream restoration and mitigation projects to the MLS team and provided copies to the Corps and MDE. For those projects, DNR's stream restoration policy (Principles and Protocols to Guide the Department of Natural Resources' Actions Regarding Stream Restoration Projects in Maryland, Policy Number 2015:01) states that "it is the overarching policy of DNR to protect riparian forests and tree cover and avoid tree clearing associated with stream restoration or other proposed stream 'improvement' activities.... Impacts to existing forest cover or trees must be avoided or minimized to the maximum extent possible with ample justification in order for a stream restoration, rehabilitation, stabilization, reclamation, enhancement or engineering project to be supported by DNR." DNR encourages replanting riparian buffers at all sites, but especially Use III and Use IV watersheds. All mitigation projects should be designed to maintain or enhance fish passage through the project area, particularly during low flow periods. DNR also provides specific comments for the various proposed compensatory mitigation sites. DNR comments and specific recommendations will be included as an attachment to this letter.

Maryland Historical Trust (MHT)

MHT commented that the proposed build alternatives have the potential to affect historic resources and MHT will continue to consult with Federal Highway Administration (FHWA) and SHA to complete the project historic properties review pursuant to Section 106.

-8-

Maryland National Capitol Park and Planning Commission

MNCPPC provided extensive comments on the proposed project. The Corps will not try to summarize the entire 200+ page comment letter (plus attachments). Instead, we will highlight some major concerns raised. MNCPPC expressed a desire for additional consideration of the MD 200 Diversion. As part of that analysis, MNCPPC requested a better explanation for why improvements to I-95 were including in the initial MD 200 analysis. MNCPPC also provided comments concerning the Capper-Crampton Act and potential impacts for parklands administered by MNCPPC. MNCPPC, and many other commenters, questioned if the proposed project LOD may be revised (i.e., increased) in the design stages and result in larger impacts than disclosed in the DEIS and JPA. MNCPPC commented that the effects of the decision to remove the collector-distributor system along I-270 were not evaluated independently of the other aspects of the build alternatives. MNCPPC provide many questions and comments on the traffic analysis including the report disputing much of the modeling approach.

Corps Comments

The Corps has reviewed MDE's comment request letter and for the sake of brevity will not repeat many of comments already provide by MDE. The Corps would request both permitting agencies be including in any discussion covering comments. Also please include both agencies in any response to those comments independent of the NEPA and JPA process. The Corps provides the following general and specific comments on the DEIS:

General DEIS Comments

- Please update the FEIS, as appropriate, in sections where information and coordination are listed in the DEIS as pending or ongoing.
- Please update all relevant sections of the FEIS and attachments to discuss the effect that COVID-19 has on the proposed MLS project, including any potential impact to the proposed project's NEPA Purpose and Need.
- Please include details regarding revised traffic studies, and address public comments concerning traffic modeling deficiencies, potential increases in latent and induced demand, changes in commuting due to COVID-19, and any potential impact to the proposed project's NEPA Purpose and Need.
- Please provide more details on constructability throughout the FEIS and relevant attachments.
- Please ensure all impact totals and required mitigation totals match throughout the FEIS and attachments.
- Please address the effects that will result from utility relocation throughout the FEIS and attachments, particularly related to impacts to resources and costs associated with relocations. Please address how the relocations will be paid.

-9-

- Please provide additional information regarding how the project will be phased, the timing of those phases, and how that relates to the current JPA.
- Please provide additional details on how the P3 process may be revised based on lessons learned from the Purple Line project. For example, would the proposed project need to provide financial assurances to a selected P3 concessionaire?
- Please update the information regarding the WQC process in Maryland and Virginia.
- Analysis for the American Legion Bridge should include a transit option (at a minimum like the design for Woodrow Wilson Bridge for future transit use), avoidance and minimization of impacts to Plimmers Island, and discuss how impact to the National Park Service C&O Canal will be handled.

Specific DEIS Comments

- Executive Summary. Under the definition of Limits of Disturbance (LOD) on Page ES-5, please consider adding language regarding a continued commitment to avoidance and minimization.
- Chapter 2. Section 2.3. page 7. Please define Fiscally Constrained.
- Section 2.5.2. page 14. The Purple Line information needs to be updated including the new completion date
- Section 2.5.3. page 18-19 The last paragraph in this section was not vetted by the Corps prior to inclusion in the DEIS and as written belongs in the Corps permit decision section not here. The applicant is free to make a statement about the financial viability of the project but should not infer the Corps has made a final determination of practicability based on financial considerations.
- Section 2.7.2. pages 37-38. Please update the culvert section in the FEIS to reflect any agreed upon changes in approach.
- Section 2.7.5. page 44. Please update the tolling information, as appropriate, with the results of toll range setting process.
- Section 2.7.5.d. page 44. states that dynamic tolling will minimize environmental impacts. Generally, separated toll lanes require a larger roadway footprint than similar general purpose lanes (e.g., for independent access/exit and separation barriers). Please provide an explanation regarding how dynamic tolling minimizes environmental impacts, including which environmental impacts are minimized.
- Section 2.7.6. page 45. Is there any analysis of how much transit would be required to meet the proposed project's NEPA Purpose and Need (i.e., to provide

-10-

- the provide traffic relief similar to the build alternatives)? Also, is there any data on the utilization of bus rapid transit (BRT)?
- Section 2.7.6 page 45. Please clarify which barriers could be addressed and if this also supports any of the proposed project's NEPA Purpose and Need (e.g., improved trip reliability for bus transit).
- Section 2.7.8. page g 47 Phase I of the P3 should be defined to avoid confusion between Phase I of the MLS and the Public Works Board approval/awarding of Phase I for the overall P3 program.
- Chapter 3. Section 3. Please explain why Active Traffic Management (ATM) is no longer included in this section.
- Chapter 4. Section 4.12 page 82. Please provide an update on the status of mitigation coordination and planning for the additional mitigation required on National Park Service land.
- Section 4.13 Page 87. Please update Section 4.13 to include stormwater locations. Also, please update the Watershed and Surface Water Quality to discuss how proposed stormwater management will mitigate water quality impacts.
- Appendix B. The analysis for MD 200 has several inconsistencies from the other build alternatives that should be explained. For example, it is not explained why the two-lane alternative for I-495 would begin at the West spur from I-270 rather than the East Spur. The area between spurs is also congested and any improvements would result in minimal impacts to parkland or residences. Also, the Interchange Reconfigurations bullet indicates that TSM/TDM were not considered due to potential environmental and property impacts, despite these impacts being included in the other retained alternatives.
- Appendix D. The traffic analysis should be revised to address the various comments received especially the traffic analysis and comments provided by Mr. Norman Marshall of Smart Mobility.
- Appendix E. The Environmental Justice analysis should be revised to address the various comments received during the public comment period.
- Appendix L. Natural Resources Technical Report Appendix A. The impact tables should include all the build alternative evaluated.

-11-

Other information Needs

As previously stated in our November 5, 2020 letter, the Corps ability to evaluate and authorize a proposed project is contingent upon receiving information on all project impacts to waters of the U.S. The Corps can evaluate the entire 48-mile transportation project. However, fundamental to permitting the entire project, the Corps requires basic information on impacts to all waters of the U.S., including jurisdictional wetlands, for the complete project. The information required for each impact area includes the location, limit of disturbance, estimated quantity of impacts (areal extent in square feet/linear feet), and type of impact (e.g., fill, culvert, stormwater management pond, stream restoration or stabilization, etc.). This information must be including in a revised JPA submittal. Please note that this additional information may trigger an additional public and/or agency coordination period with a subsequent comment response/information request. The revised JPA submittal must also include Phase II compensatory mitigation plans for the proposed permanent impacts to waters of the U.S., including jurisdictional wetlands. Also, any DA authorization is contingent upon the applicant receiving all other applicable approvals including Section 401 Water Quality Certification (WQC). Please be aware of the time requirements for 401 WQC process and any final permit decision making requirements under the One Federal Decision process.

Summary and Additional Information Requirements

The Corps is concerned that several of the broad comments and issues raised during the comment period may affect the MLS's NEPA Purpose and Need and the screening criteria used to evaluate alternatives (e.g., traffic analysis and environmental justice). While all public comments are important and need to be addressed in your comment response and NEPA documentation, it is essential that there is in-depth analysis to support any selected preferred alternative for the proposed project and the elimination of other alternatives. Therefore, considering these comments and concerns, the Corps is requesting you address the enclosed comments and our additional information request. Also, please copy furnish the Corps in your response to MDE's comment letter, including their additional information request, and provide MDE a copy of your response to our comments.

In accordance with DA regulations, this office provides applicants with the opportunity to furnish proposed resolutions or rebuttals to all objections and comments received. In order for us to more fully consider the responses we received, and to enable us to assess the total impacts of the project and continue with our evaluation, a response regarding each comment, concern, or recommendation is requested along with a preferred alternative recommendation and ultimately a revised JPA and revised NEPA document. **Please provide this office with your response to the the enclosed comments and this letter, by March 15, 2021.** If additional time is necessary, please advise this office. Please send your electronic response to john.j.dinne@usace.army.mil and copy furnish MDE (steve.hurt1@maryland.gov). The information requested is to fulfill the requirements of Corps regulations, the Clean

-12-

Water Act Section 404(b)(1) Guidelines, and the Corps public interest review process. This information will be used to render a final Corps permit decision.

We look forward to coordinating with you as the review process proceeds and we work to make a permit decision under the One Federal Decision process. Should you have any questions concerning this matter, please contact me at (410) 962-6005 or john.j.dinne@usace.army.mil.

Sincerely,

Jack Dinne 12/3/2020

Jack Dinne
Biologist, Maryland North Section

Enclosures

Cc (via email): Mr. Steve Hurt, MDE (steve.hurt1@maryland.gov)
Ms. Jeanette Mar, FHWA (jeanette.mar@dot.gov)

Virginia Department of Transportation - DEIS Comments

No.	Page	DEIS Section	Comment	Response
1	General	General	Thank you for providing the Virginia Department of Transportation (VDOT) with an opportunity to comment on the I-495/I-270 Managed Lanes Study - Draft Environmental Impact Statement (DEIS) /Draft Section 4(f) Evaluation (July 2020). As you know, VDOT has been closely coordinating technical issues for its I-495 NEXT (Northern Extension of Capital Beltway Express Lanes) project with the Maryland Department of Transportation (MDOT)/State Highway Administration (SHA) to ensure that our two independent projects are properly coordinated regardless of the outcome of the on-going separate NEPA processes for each project.	Thank you for your continued participation. MDOT SHA will continue to coordinate with VDOT on the connections between the MLS and NEXT projects.

VIRGINIA DEPARTMENT OF TRANSPORTATION

From: Iosco, Robert <robert.iosco@vdot.virginia.gov>
Sent: Tuesday, October 13, 2020 2:31 PM
To: Caryn Brookman (Consultant) <CBrookman.consultant@mdot.maryland.gov>
Cc: Susan Shaw <susan.shaw@vdot.virginia.gov>; Abraham Lerner <abraham.lerner@vdot.virginia.gov>
Subject: I-495 & I-270 Managed Lanes Study - VDOT Comments on Draft Environmental Impact Statement (DEIS)/Draft Section 4(f) Evaluation
Caryn -

Thank you for providing the Virginia Department of Transportation (VDOT) with an opportunity to comment on the *I-495/I-270 Managed Lanes Study - Draft Environmental Impact Statement (DEIS) /Draft Section 4(f) Evaluation (July 2020)*. As you know, VDOT has been closely coordinating technical issues for its I-495 NEXT (Northern Extension of Capital Beltway Express Lanes) project with the Maryland Department of Transportation (MDOT)/State Highway Administration (SHA) to ensure that our two independent projects are properly coordinated regardless of the outcome of the on-going separate NEPA processes for each project.

Please feel free to contact me if you have any questions or concerns.

Robert

Robert Iosco
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Virginia Department of Transportation
Northern Virginia District
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