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USACE & MDE JOINT PUBLIC HEARING
I-495 and I-270 Managed Lanes Study

Held At:

The Hilton Rockville Hotel
& Executive Meeting Center
The Eisenhower Conference Room
Rockville, Maryland

Thursday, September 8, 2022

6:30 P.M.

Reported by Gervel A. Watts, CERT

A P P E A R A N C E S

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PANELISTS:

Andrew Bing, Moderator, MDOT SHA

Amanda Sigillito, MDE

Bill Sieger, MDE

Danielle Spendiff, MDE

Joseph DaVia, US Army Corps of Engineers

Nick Ozburn, US Army Corps of Engineers

C O M M E N T E R S

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Anisha Talwar, Senator Van Hollen's Office

Robert Soreng, Washington Biologist Field Club

Barbara Coufal, Citizens Against Beltway Expansion

Bob DeWitty

Brian Ditzler, Maryland Sierra Club

Byron Bloch, STICA

Senator Cheryl Kagan

Dr. Shannon Browne, UMD, EST

Kyle Hart, NPCA

Sally Stolz, dontwiden270.org

Donna Gentry

Arthur Katz

Kristin Gamzon-Cooke

Dr. Shannon Browne

P R O C E E D I N G S

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THE MODERATOR: Good evening. I'm Andrew Bing with the Maryland Department of Transportation State Highway Administration, abbreviated MDOT SHA.

Today is the first of two joint public hearings that the Army Corps of Engineers, or Corps, and Maryland Department of Environment, or MDE, will be conducting for the I-495 and I-270 Managed Lane Study Joint Permit Application, or JPA, and 401 Water Quality Certification, or WQC. I will be the hero moderator and responsible for running this evening's public hearing.

This evening's hearing is being held jointly by the Corps and MDE. On behalf of these agencies, I welcome you. The purpose of this hearing is to provide members of the public, the opportunity to present views, opinions, and information that will be considered by the Corps and MDE in evaluating the JPA and 401 WQC for the

1 project.

2 Today, I will provide a brief
3 description of the Managed Lanes Study, and the
4 aquatic resource impacts documented in the JPA and
5 mitigation proposed to offset these impacts. I
6 will introduce the panelists and identify ways for
7 you to comment on the JPA and the 401 WQC. MDE
8 and the Corps will then give statements on behalf
9 of their agency. Finally, I will review the
10 hearing procedures and invite attendees to provide
11 testimony.

12 On 495, the project consists of adding
13 two new high occupancy vehicle toll managed lanes
14 in each direction for the George Washington
15 Memorial Parkway to west of MD 187. On I-270, the
16 project would convert one existing high occupancy
17 vehicle lane in each direction to a high occupancy
18 vehicle managed lane and add one new high-
19 occupancy vehicle managed lane in each direction
20 from I-495 to 370 I-270 east and west spurs.

21 The project also includes full

1 replacement of the American Legion Bridge, onsite
2 and offsite storm water management, and park
3 mitigation.

4 I will now read the description of
5 impacts to waters of the United States regulated
6 by the Corps and wetlands, wetland buffers,
7 waterways, and floodplains regulated by MDE.

8 Unavoidable aquatic resource impacts
9 regulated by the Corps include:

10 14.67 acres and 40,186 linear feet of
11 permanent stream impact,

12 7.42 acres and 2,353 linear feet of
13 temporary stream impact,

14 3.41 acres of permanent wetland impact,
15 and 0.63 acres of temporary wetland
16 impact.

17 Unavoidable aquatic resource impacts
18 regular regulated by the MDE include:

19 14.21 acres and 37,981 linear feet of
20 permanent stream impact,

21 7.41 acres and 2,300 linear feet of

1 temporary stream impact,
2 3. 51 acres of permanent nontidal
3 wetland impact,
4 0.4 acres of temporary nontidal wetland
5 impact,
6 6. 26 acres of permanent 25-foot wetland
7 buffer impact,
8 0.4, one acres of temporary 25 foot
9 wetland buffer impact,
10 24. 21 acres of permanent,
11 100-year floodplain impact,
12 and 7.42 acres of temporary 100-year
13 floodplain impact.

14 Through the initial draft phases. The
15 applicant in coordination with the Corps and MDE
16 minimized and avoided resource impacts. Still,
17 the proposed work would result in losses of
18 approximately 3.5 acres of nontidal wetlands and
19 7,511 functional feet of streams. Mitigation to
20 offset impacts of the proposed work that I just
21 described in Maryland is approximately 4.28 acres

1 of wetland mitigation and 7,511 functional feet of
2 stream mitigation. Two permittee responsible
3 mitigation sites have been identified to offset
4 the losses in addition to purchase of mitigation
5 credits from mitigation banks. Construction of
6 the proposed wetland and stream mitigation sites
7 would temporarily impact 0.82 acres of nontidal
8 wetlands and 12,000 linear feet of nontidal stream
9 channel.

10 The permittee responsible mitigation work
11 as proposed would result in the restoration of
12 5,870 functional feet of stream channel, and 4.38
13 acres of nontidal wetlands. The remaining
14 mitigation will be purchased from approved
15 mitigation banks within the region.

16 The mitigation requirement in Virginia
17 is 472 linear feet of streams, which will be
18 satisfied through purchase of credits from an
19 approved mitigation bank in Virginia. I will now
20 introduce representatives of MDE and the Corps who
21 are in attendance for this evening's hearing.

1 Amanda Sigillito, Chief of the Nontidal Wetlands
2 Division of the Maryland Department of the
3 Environment; Bill Sieger, Chief of the Waterway
4 Construction Division of the Maryland Department
5 of the Environment; Danielle Spendiff, Chief of
6 the Regulatory and Customer Service Division of
7 the Maryland Department of the Environment; Joseph
8 DaVia, Chief of the Maryland Section Northern of
9 the US Army Corps of Engineers, Regulatory Branch,
10 Baltimore District; and Nick Ozburn, Senior
11 Project Manager, US Army Corps of Engineers,
12 Regulatory Branch, Baltimore District.

13 At this time, I will turn the
14 proceedings over to Amanda Sigillito, to provide
15 her statement.

16 MS. SIGILLITO: Thank you. Hello, my
17 name is Amanda Sigillito, and I am Chief of the
18 Nontidal Wetlands Division at the Maryland
19 Department of the Environment, abbreviated as MDE
20 or (the Department).

21 I am the panelist representing MDE at

1 this public informational hearing for the I-495
2 and I-270 Managed Lane Study, Alternative 9, Phase
3 I South, Joint Permit Application and Water
4 Quality Certification request.

5 Attending here with me from the
6 Department are Bill Sieger, who is Chief of the
7 Waterway Construction Division, and Danielle
8 Spendiff, who is Chief of the Regulatory and
9 Customer Service Division. The Department
10 appreciates both your interests and participation
11 in the public comment process.

12 It is the responsibility of MDE to
13 evaluate applications that propose impacts to
14 nontidal wetlands, the nontidal wetland buffer and
15 waterways, including the 100-year nontidal
16 floodplain. MDE's authority is found in Subtitles
17 V and IX of the Environment Article.

18 Each application received through our
19 regulatory program has specific and unique issues
20 and impacts that must be considered in
21 relationship to weighing the potential benefits

1 and detriments of the project. The department is
2 neither a proponent nor opponent of any project.

3 We are here this evening in the context
4 of the Department's review of the Joint Permit
5 Application Water Quality Certification request
6 for the I-495 and I-270 Managed Lane Study,
7 Alternative 9, Phase I South project, which
8 proposes impacts to nontidal wetlands and nontidal
9 wetland buffer and waterways, including the 100-
10 year nontidal flood plain.

11 The Department is seeking from hearing
12 participants your perspectives, views, and
13 concerns about the projects, specifically as they
14 relate to the Joint Permit Application and Water
15 Quality Certification request. Public input is
16 not only part of the administrative process for
17 permitting, it is also essential to making well-
18 informed and thoughtful decisions.

19 This public informational hearing is
20 being conducted pursuant to Subsection 5-204 of
21 the Environment Article, and Code of Maryland

1 Regulations 26.23.02.02 and 26.17.04.13 and
2 26.08.02.10. The purpose of this public
3 informational hearing is to provide the applicant
4 with an opportunity to present an analysis of
5 impacts that may be associated with a proposed
6 activity.

7 The regulations provide applicants for
8 permits before the Department and any interested
9 person, an opportunity to present facts and make
10 statements at the public informational hearing for
11 or against granting a permit or certification. It
12 is not necessary to read a statement to make it
13 part of the official record written comments will
14 also be accepted and receive the same
15 consideration as any oral statement. In fact, for
16 accuracy, if you have a letter to read into the
17 record this evening, I suggest you also provide us
18 with a copy of the letter when you finish.

19 Please note that the formal hearing
20 record will remain open until Thursday, September
21 29, 2022. This public informational hearing is

1 for the Nontidal Wetlands and Waterways Permit
2 Application No. 20-NT-0114/202060649 and the Water
3 Quality Certification Request No. 22-WQC-0023,
4 submitted by the Maryland Department of
5 Transportation and State Highway Administration
6 for the proposed construction of managed lanes
7 along I-495 and I-270 corridors in Montgomery
8 County.

9 Please note that when the department
10 issues its decision on the permit application and
11 the WQC, the accompanying information will be sent
12 to the interested person's list as well as to the
13 applicant.

14 Additionally, the water quality
15 certification decision will also be published in
16 the Maryland Register. The Department's decision
17 will be a final agency determination. There will
18 be no further opportunity for administrative
19 review. Any person withstanding who is either the
20 applicant or who participated in the public
21 participation process through the submission of

1 written or oral comments may petition for judicial
2 review in the Circuit Court. The petition for
3 judicial review must be filed within 30 days of
4 the publication of the Department's permit
5 decision.

6 At this time, I will turn the
7 proceedings over to Mr. Joseph DaVia of the US
8 Army Corps of Engineers.

9 MR. DAVIA: Thank you, Amanda. Good
10 evening, ladies and gentlemen, my name is Joseph
11 DaVia, and I am Chief of Maryland North Section in
12 the regulatory branch of the US Army Corps of
13 Engineers, Baltimore district with me here today
14 from the Corps is Nick Ozburn, sitting to my
15 right, who is the Corps Regulatory Project Manager
16 and point-of-contact for this application.

17 Also, in the audience for the Corps is
18 Carlos Lazzo, our Government Affairs Officer and
19 Cynthia Mitchell from our Corporate Communication
20 Office. I would like to thank the Maryland
21 Department of Transportation, State Highway

1 Administration for providing the location and
2 support services to allow us to hold this public
3 hearing. Thank you for participating in our
4 regulatory review process.

5 At this time, I'd also like to recognize
6 the offices of federal elected officials in
7 attendance. There is a staff person from Senator
8 Chris Van Hollen's Office, and also Senator
9 Harden's Office has been tracking this action very
10 closely.

11 It is the responsibility of my office to
12 evaluate applications for Department of the Army
13 permits for any proposed work in waters of the US,
14 including wetlands. The Corps authority is found
15 in Section 404 the Clean Water Act, and Section X
16 of the Rivers and Harbors Act.

17 Each application received through our
18 regulatory program has specific and unique issues
19 and impacts that must be considered in
20 relationship to weighing the potential benefits
21 and detriments of the project. Please note that

1 the Corps is neither a proponent nor opponent of
2 any project.

3 The purpose of today's hearing is to
4 inform you of this project and allow you the
5 opportunity to provide comments to be considered
6 in our Corps regulatory public interest review of
7 the proposed work. This venue is for you to
8 provide comments on the project and the Corps and
9 MDE will not be responding to comments here.

10 However, if you ask specific questions, please
11 proceed to the adjacent room. There's a poster
12 session, and you can speak with an MDOT
13 representative.

14 In compliance with the National
15 Environmental Policy Act, the Federal Highway
16 Administration, the lead federal agency for the
17 project, in cooperation with the Corps and other
18 cooperating agencies, has issued a final
19 environmental impact statement for the proposed
20 project.

21 Further, at the conclusion of the Corps

1 review process, the Corps will be preparing a
2 Statement of Findings and Record of Decision for
3 the project in which your comments will be
4 included and addressed. Your comments are
5 important in the preparation of this document and
6 in our evaluation of the permit application.

7 The decision on whether or not to issue
8 a permit will be based on an evaluation of the
9 probable impacts, including cumulative impacts of
10 the proposed activity on the public interest and
11 in compliance with the Clean Water Act, Section
12 404(b)(1) guidelines. That decision will reflect
13 the national concern for both protection and
14 utilization of important resources. The benefits
15 which may reasonably be expected to accrue from
16 the proposal will be balanced against its
17 reasonably foreseeable detriments.

18 All factors that may be relevant to the
19 proposal are considered among these are
20 conservation, economics, aesthetics, general
21 environmental concerns, wetlands, historic

1 properties, fish and wildlife values, flood
2 hazards, floodplain values, land use, navigation,
3 shoreline erosion and accretion, recreation, water
4 supply and conservation, water quality, energy
5 needs, safety, food and fiber production, mineral
6 needs, threatened and endangered species,
7 environmental justice, cumulative impacts,
8 considerations of property ownership, and in
9 general, the needs and welfare of the people.

10 The comment period for this project
11 extends to September 29, 2022. Comments received
12 today and that the virtual hearing on September
13 14th and throughout the comment period will be
14 considered.

15 The time required to reach the
16 Department of the Army permit decision is
17 dependent upon necessary coordination of concerns
18 with resource agencies, careful evaluation of all
19 substantive comments, and ensuring statutory
20 requirements are met. Again, thank you for
21 attending this public hearing and participating in

1 the Corps regulatory review process.

2 Andrew, back over to you.

3 THE MODERATOR: Okay. Thank you, Joe
4 and Amanda. there are multiple ways to comment on
5 the JPA and WQC. You can provide oral testimony
6 at this public hearing or send an email or written
7 letter to the Corps or MDE. Details on ways to
8 comment can be found on the Op Lanes Maryland
9 website by visiting the JPA page at
10 oplanesmd.com/jpa. Comments must be received
11 before 11:59 P.M. On September 29, 2022. All
12 colleagues received, whether at the hearing
13 through oral testimony or through other methods,
14 such as an email or written letter will be given
15 equal consideration.

16 Today's joint public hearing is being
17 audio recorded. The official transcript of the
18 public hearing testimony will become part of the
19 project record and will be available for public
20 review on the Op Lanes Maryland website.

21 Agency representatives and I will not be

1 answering questions or responding to any comments
2 made during the hearing. There is a poster
3 session located adjacent to our hearing room where
4 you can view informational boards and speak to
5 staff who are available to answer questions.

6 Again, the purpose of this hearing is to
7 allow interested parties to provide public
8 comments on the JPA and WQC. My role as the
9 hearing moderator is to run a professional and
10 orderly joint public hearing. I understand how
11 important the issues are related to the JPA and
12 the WQC, and I take my role as hearing moderator
13 seriously.

14 I am committed to providing members of
15 the public an opportunity to provide comments in
16 an organized, fair, professional, and orderly
17 manner. We look forward to hearing your
18 perspectives on the proposed project, but please
19 be courteous of all speakers and understand that
20 offensive or profane language will not be allowed.

21 If you have joined us today to listen to

1 the public hearing and have changed your mind and
2 would like to actually provide live testimony but
3 did not request to do so when you signed in,
4 please just go out to the checking table to
5 request to provide testimony.

6 The panelists are interested in hearing
7 comments about the JPA and WQC from all interested
8 individuals. Please speak directly and clearly
9 into the microphone and provide your full name,
10 address, and any organization you may be
11 representing.

12 To ensure all will be heard. There will
13 be a three-minute time limit for public testimony
14 and a five-minute time limit for elected officials
15 and group representatives. The time will start
16 after you introduce yourself. You will see your
17 remaining time on the screen, and I will announce
18 a 30-second warning.

19 As the hearing moderator, if you are
20 unable to conclude your comments at the end of
21 your time period, I will ask you to end your

1 testimony and move on to the next person that I
2 have cards for.

3 Okay. At this time, I'm going to call
4 the first person to provide comments. We will
5 begin with comments from elected officials and
6 then move on to comments from the public. Right
7 now, I don't have a card from any elected official
8 willing to provide -- wishing to provide
9 testimony. I know we do have a representative
10 here. Just as a courtesy, do you wish to make any
11 public comment?

12 MS. TALWAR: I just want to hello to
13 everyone. I'm Ashima Talwar, working for Senator
14 Van Hollen, state director --

15 THE MODERATOR: Wait. Ma'am, I do need
16 you to come up to the microphone, even just to say
17 hello.

18 MS. TALWAR: Okay. Sure.

19 THE MODERATOR: You want to be part of
20 the record. And if you could just spell your name
21 after you say it.

1 MS. TALWAR: Ashima Talwar, A-S-H-I-M-A.
2 Last name T-A-L-W-A-R. As Senator Van Hollen's
3 state director, just thank you so much for
4 affording everyone this opportunity. And I'm
5 taking notes and happy to take anything back to
6 the senator today. Thanks so much.

7 THE MODERATOR: Thank you. You have
8 four minutes and 50 seconds left. Okay. We're
9 going to move onto the members of the public who
10 have signed in. I'm going to go in the order that
11 the cards were handed to me.

12 So again, you will see the clock up on
13 the screen. The first person that we're going to
14 hear from is Robert Soreng with the Washington
15 Biologist Field Club. After Robert will be
16 Barbara Coufal.

17 So okay, Mr. Soreng, as you come up, if
18 you could, please state your name, spell your
19 name, provide your address and any organization
20 that you are representing.

21 And again, your time will start after

1 you're done with all that.

2 MR. SORENG: I can't quite see. My name
3 is Robert Soreng. That's spelled S-O-R-E-N-G. My
4 address is 5506 Uppingham Street, Chevy Chase,
5 Maryland 20815. And I'm here representing, as a
6 representative of the Washing Biologist Field Club
7 on Plummers Island. I'm the president of the
8 club.

9 Plummers Island is a research station of
10 the Washington Biologist Field Club. It is
11 eligible for the National Register of Historic
12 Places, based on the long history of the club,
13 beginning in 1901, and along with the extensive
14 research on the island, known as the most
15 thoroughly studied island in North America.

16 Plummers Island was given to the
17 National Park Service in 1959, by the club, in
18 exchange for maintenance of the island, by the
19 club, as a research natural area within the newly
20 created C&O canal, National Historical Park. It's
21 a research -- a special area within the national

1 Park; it's a public area.

2 Plummers Island's rare biota and natural
3 communities and the club's objective of long-term
4 trends would be irreparably jeopardized by the
5 expansion of the American Legion Bridge onto the
6 island.

7 I should point out, well, this is a map
8 of Plummers Island and the Potomac River and the
9 channel around the island now called Plummers
10 Channel. We've done vegetation studies of the
11 island. We have a November 2021 image of the
12 bridge plan posted up here.

13 I understand the bridge plan has changed
14 somewhat, but at that point, the bridge went clear
15 up to the line of the limits of disturbance. The
16 new pier represent -- the blue piers represent the
17 new piers for the bridge. And there are three
18 piers here on either side of the channel and a
19 case on further over most of the bridge expands
20 onto the island.

21 There's a 15-foot gap between the

1 bridge, so there will be north and south-facing
2 bridges, directional bridges. Most of the bridge
3 is moved into onto the island 15-feet from the
4 southbound lane. So the gap expands onto the
5 island, the bridge will have an extra lane on it
6 and out the bicycle pathway overhanging the
7 islands substantially.

8 MDOT claims that the bridge would have a
9 minuscule footprint of three piers on the island,
10 but the bridge itself would directly overhang a
11 larger swath of the island and shadow much further
12 inland. The six inline bridge piers positioned
13 across the channel would save logs out of the
14 river channel that dam up that up, creating a
15 massive river eddy and big floods, forcing water
16 onto the island through the ancient, rarely
17 flooded channel. We've had multiple floods, huge
18 log jams further down the channel in recent years.

19 MDOT has talked about raising the main
20 Ridge west -- at the west end of the island for
21 clearance for cranes. That's this ridge here.

1 This rock ridge guides the channel and helps
2 protect the island from high floods. MDOT talked
3 about eliminating one or all three piers from the
4 island in November. However, that is not in the
5 FEIS, and we have no certainty of what the final
6 design will be. And we find that worrisome. MDOT
7 claims the vertical shadow for the ridge footprint
8 overhanging will 0.27 acres, but again, we have no
9 certainty of that.

10 Invasive plans are a nuisance on the
11 island and clearing many trees from within the
12 limits of disturbance along the upper channel
13 bridge construction would result in much
14 disturbance and erosion of the banks of the
15 island.

16 MDOT says they will armor the slopes of
17 the island along the channel, but the air is
18 affected by the shadow disturbance, and erosion
19 will extend much further onto the island impacting
20 -- impact by the direct overhang. End doubt has
21 no plan for the toxic runoff. National Park

1 Service of toxic runoff will not be allowed on MPS
2 lands.

3 THE MODERATOR: Twenty seconds.

4 MR. SORENG: The channel will probably
5 revert to its old mouth location, due to the
6 removal of the present curbside, riverside case
7 logs, increasing the flow into the channel. This
8 will create additional access problems for the c
9 club.

10 Thank you for listening to our concerns.

11 THE MODERATOR: Okay. Thank you for
12 your comments. We're going to go to the next
13 person. Kim, can we take that down?

14 The next person to speak will be Barbara
15 Coufal with Citizens Against Beltway Expansion.
16 And after Ms. Coufal will be Robert DeWitty.

17 Ms. Coufal if you could state your name,
18 spell your name, provide your address, and the
19 group you're representing?

20 MS. COUFAL: Yes. Barbara Coufal with
21 Citizens Against Beltway Expansion. My address is

1 10112 Parkwood Drive, Bethesda, Maryland 20714.
2 I'm co-chair of Citizens Against Beltway
3 Expansion. I urge that the Joint Permit
4 Application for the tollings be rejected.

5 The statement of purpose for the
6 project reads: "The phase one south project is to
7 develop a travel demand management solution that
8 addresses congestion and improves trip reliability
9 on I-495 and I-270 within the project area and
10 enhances existing and planned multimodal, mobility
11 and connectivity."

12 The full purpose and need statement
13 includes the need to provide additional roadway,
14 travel choices, and a goal to incorporate
15 alternative funding sources, to achieve financial
16 viability. The need for additional roadway and
17 the goal of alternative funding precluded the
18 possibility of addressing congestion by other
19 means the goal of alternative funding -- of a
20 funding source improperly limited alternative to
21 those that would be profitable to a private

1 investor. Rather than studying the best way to
2 address congestion and pursuing those solutions,
3 MDOT decided it would pursue private financing and
4 then narrowed the solutions to those that would
5 attract investors. MDOT got it backwards.

6 The proposed stream restorations and
7 wetland mitigations should not be approved.

8 Stream restorations do not restore streams; they
9 import foreign material and destroy riparian
10 ecosystems. This complex web cannot be recreated
11 by simply replanting some trees and shrubs.
12 Stream restorations do not address the root cause
13 of stream bank erosion, which is the fire hose of
14 storm water flowing into the streams. Forest
15 counteract global warming.

16 Riparian forests should not be cut for
17 stream restorations. No long-term
18 interdisciplinary research shows clearly that a
19 created wetland has a fully replaced, lost
20 function resulting from a wetland's destruction
21 has fully replaced lost function resulting from a

1 wetland's destruction.

2 I also want to highlight concerns raised
3 by the Washington Biologist Field Club regarding
4 Plummers Island, a unique 12-acre natural area
5 where numerous plant -- rare plant and animal
6 species, and four globally rare plant communities
7 are documented.

8 In their letter to the Army Corps of
9 Engineers earlier this year, the scientists
10 described adverse impacts to aquatic wildlife, the
11 destruction of a low forested ridge of bedrock
12 outcrops and rare flora, stream bank and flood
13 bank, plain erosion and destruction of several
14 natural communities and habitats. Their letter
15 describes additional harms that would come to this
16 island of great scientific interest.

17 In the Joint Permit Application, MDOT
18 claims that the preferred alternative completely
19 avoids the Morning Star Tabernacle No. 88 Moses
20 Hall Cemetery. This statement is not true. In
21 its February, 2022 letter to MDOT, the Friends of

1 Moses Hall described the ground penetrating radar
2 survey conducted by MDOT as incomplete. MDOT has
3 acknowledged that additional studies are needed to
4 determine if there are additional burials. In the
5 Section 106 Programmatic Agreement, MDOT notes
6 that there is some potential for human remains to
7 be present in the area of the hall and cemetery.
8 In Appendix T of the final EIS, MDOT states, "No
9 specific determination of effects to Moses Hall
10 and Cemetery will be made at this time and will be
11 made following the completion of additional
12 investigations specified in the Programmatic
13 Agreement and treatment plan."

14 MDOT's permit application certifies that
15 the impact to Moses Cemetery are avoided. But the
16 truth is that MDOT has not fully investigated the
17 presence of burials and acknowledges this in the
18 Programmatic Agreement and the final EIS.

19 In closing, we'd like to note that
20 Transurban does not have a design build partner.
21 The absence of a design build partner means that

1 Transurban cannot finalize the design or the cost.

2 THE MODERATOR: Thirty seconds.

3 MS. COUFAL: We urge you to reject the
4 permit application. Thank you.

5 THE MODERATOR: Thank you, Ms. Coufal.
6 Next up will be Robert DeWitty. After Robert will
7 be Brian Ditzler of the Sierra Club.

8 Mr. DeWitty, I don't have you
9 representing an organization, so you'll have three
10 minutes. Okay.

11 MR. DEWITTY: No.

12 THE MODERATOR: Please state your name.

13 MR. DEWITTY: Robert DeWitty. DeWitty
14 is spelled D as in David, E, capital W-I-T-T-Y.

15 My comments are rather selfish.

16 THE MODERATOR: Sir, before you start,
17 we'll give you the full three minutes. Just if
18 you could state your address.

19 MR. DEWITTY: 7525 Pepperell Drive,
20 Bethesda, Maryland 208170 And my house backs up
21 to the Beltway. Okay. It has been proposed if

1 you're going to take part of my property in order
2 to construct this new route that you want to do.
3 The noise at the Beltway now, at times, is
4 unbearable. When you construct it closer to my
5 house, it's going to be even more unbearable.

6 I think you should consider something
7 like mass transportation, Take 5,000 cars off the
8 street. You'll do something with your carbon
9 imprint if you do that. Don't do rail, do buses.
10 And I'm sure the geniuses that thought up this
11 idea can figure out how to do that.

12 I've written a letter to the governor,
13 which he will not read I'm sure. I've sent a copy
14 to the county executive, which he probably will
15 not read either. But still in all, you can't take
16 away as far as I'm concerned, my investment just
17 so you can crowd the highways.

18 Billions of dollars will be spent years
19 of construction, and it's going to be obsolete in
20 five to ten years, just as every highway you
21 built. While I was in training and training --

1 and training, I practiced general surgery and
2 cancer surgery in the metropolitan area for 43
3 years, tack onto that six years of training: 49
4 years.

5 And I used to go to Norfolk, Virginia to
6 train, come back to Maryland, and it was on a two-
7 lane highway on 95. Now I think it's three lanes
8 all the way, maybe even more. You're going to be
9 obsolete and you're going to do absolutely nothing
10 but take away two things; my financial investment,
11 which I didn't see anybody writing about, plus the
12 inconvenience of building it. It's just not
13 appropriate.

14 You gotta take cars off the street and
15 you do that with mass transportation. I'm sure
16 there are a lot of people who would love to have a
17 dedicated bus lane, but if you take that many cars
18 off the street, you're going to have enough lane
19 to use it as a dedicated bus lane, at least during
20 the high traffic times.

21 So that's what this is why I'm -- my

1 neighbor's yard is going to be compromised more than
2 me. So I asked a question of a person across the
3 hall and I got 47 seconds. I said, "How is what
4 you're going to do to my property different from
5 what Russia is doing to Ukraine?" You might say,
6 well, we have right of domain. Russia just says
7 we got right, but it's still a compromise and it
8 is not necessary. Thank you.

9 THE MODERATOR: Thank you, Mr. DeWitty.
10 Our next speaker will be Brian Ditzler with the
11 Sierra Club. After Mr. Ditzler will be Byron
12 Bloch of the South Tuckerman Inverness Citizens
13 Association.

14 Mr. Ditzler, if you could state your
15 name, spell your name, provide your address, and
16 again, just the organization you're representing.

17 MR. DITZLER: My name is Brian Ditzler.
18 I live at 1225 Noyes Drive in Silver Spring,
19 Maryland. And I'm testifying here on behalf of
20 Maryland Sierra Club and its more than 70,000
21 members and supporters in this state.

1 THE MODERATOR: If you could just spell
2 your name for the record.

3 MR. DITZLER: B-R-I-A-N, D-I-T-Z-L-E-R.

4 THE MODERATOR: Great. Thank you.

5 MR. DITZLER: Sierra Club strongly
6 believes that the proposed plan to widen a portion
7 of I-495 and I-270 and rebuild the American Legion
8 Bridge would not solve traffic congestion and
9 would be a disaster for Maryland's air, land,
10 water resources, residents, communities, and
11 historic resources. Sierra club will be
12 submitting written comments on the JPA later this
13 month. I'll confine my remarks here to three main
14 points.

15 Point 1: a decision on the JPA should be
16 deferred until a relevant information is publicly
17 released. This information includes an
18 independent financial value for money analysis
19 that needs to be completed on the proposed Phase I
20 contract with the public/private partner. MDOT
21 has promised to provide this analysis, but as she

1 had to do so.

2 Public disclosure is needed of the
3 Capital Beltway accord between the governors of
4 Maryland and Virginia that was first announced in
5 November 2019. The accord was to rebuild the
6 American Legion Bridge and create a unified
7 Capital Beltway with new thru lanes added on both
8 sides and over the bridge.

9 Now, 33 months later, details and
10 agreement have yet to be released what impact
11 accord might have on the new bridges exact
12 location, environmental impact, and cost sharing
13 formula needs to be publicly disclosed before more
14 decisions are made on this project.

15 A third public disclosure needed is the
16 name of the highway construction company that the
17 highway expansion concessionaire has retained.
18 This is needed to confirm that the highway
19 construction company has agreed to accept the
20 projected construction costs, including mitigation
21 plans that MDOT and the concessionaire have

1 announced.

2 Point 2: the preferred Alternative 9
3 will have an adverse impact on clean water. The
4 plan mitigation for the worst impacts of the
5 projects on wetlands and streams and the Cabin
6 John water shed should be taking place where the
7 adverse impacts are happening and not some
8 distance away in the Sentara Creek watershed in
9 Frederick County. We recognize using credits for,
10 for stream and wetland mitigation completed
11 elsewhere is legal, but it's morally wrong to harm
12 communities and resources locally and not to
13 mitigate those harms locally.

14 It'll be impossible to adequately
15 compensate the adverse impacts the project will
16 have on wetlands and streams because climate
17 change will bring more intense rain downpours and
18 increased stormwater runoff from increased
19 impervious surface. When there is little storm
20 water mitigation actually planned adjacent to the
21 bridge and expanded highway, the magnitude of the

1 problem could be very significant.

2 Final point on that. The Washington
3 Suburban Sanitary Commission has determined that
4 the proposed construction on I-270 could impact
5 their Potomac water filtration plan that provides
6 120 million gallons of safe, clean drinking water
7 per day to 1.8 million residents in Montgomery and
8 Prince George's County. When WSSC decides it
9 needs to relocate some of its existing
10 infrastructure and MDOT continues to say it
11 remains committed to delivering the highway
12 project at no net cost to the state, the
13 infrastructure relocation could require a quote
14 "substantial rate increase" on WSSC customers.
15 That's unacceptable.

16 Last point. The faulty application of
17 the National Environmental Policy Act on this
18 project caused the relevant agencies to not
19 substantially consider reasonable alternatives to
20 highway expansion that would've had fewer
21 environmental impacts.

1 Section 404(b) guidelines of the Clean
2 Water Act that require that the Corps determine
3 that the project being undertaken is the least
4 environmentally damaging practical alternative,
5 and that all appropriate and practical steps have
6 been taken to minimize the adverse impacts of the
7 project to wetlands and other waters of the United
8 States. That's being violated.

9 There were, and still are practical
10 alternatives to the highway expansion that were
11 not considered by MDOT, including expansion of the
12 Marc commuter train, running from Frederick to DC,
13 and soon to Northern Virginia, as well as the
14 number of proposed bus rapid transit lines that
15 could be implemented at far less cost with little
16 or no impact on wetlands, waterways, or forests.

17 THE MODERATOR: Thirty seconds.

18 MR. DITZLER: MDOT'S excuse for
19 eliminating consideration of transit alternatives
20 was that transit did not have the potential to be
21 financially self-sufficient. Use of a public

1 private partnership to fund the highway project
2 was a decision by the governor without any
3 publicly release study, comparing that approach to
4 the usual approach of bonding. Research on past
5 highway expansion projects clearly demonstrate
6 that widening highways does not solve congestion.
7 Instead, it encourages more people to drive
8 increasing air pollution and traffic. So the
9 congestion will return a few years later and more
10 has been encouraged too.

11 THE MODERATOR: I need you to wrap up,
12 sir.

13 MR. DITZLER: Greater use of traffic
14 demand -- last sentence. Greater use of traffic
15 demands management, including telework along with
16 more frequent and reliable transit to more
17 locations, more biking and walking are far more
18 effective and environmentally friendly
19 alternatives. Thank you.

20 THE MODERATOR: Thank you. Our next
21 will be Byron Bloch, the South Tuckerman

1 Inverness Citizen Association.

2 After Mr. Bloch will be Senator Cheryl
3 Kagan of District 17. I had already recognized
4 Mr. Bloch, so I'm going to have him provide his
5 testimony. Mr. Bloch, as you get back to the
6 microphone, please state your name, spell your
7 name, provide your address, and again, the
8 organization you're representing.

9 MR. BLOCH: Sure. My name is Byron
10 Bloch, B-Y-R-O-N. Last name is Bloch, B-L-O-C-H.
11 My address is 8016 Lakenheath Way, Potomac,
12 Maryland 20854. I am here representing my
13 homeowners or citizens association known as STICA,
14 which stands for south Tuckerman Inverness Forest
15 Citizens Association. I am the vice president and
16 a board member of STICA.

17 I handed out to you my comments. So I
18 just want to briefly skim over some of the points.
19 The most important point, first of all, of the
20 five or six I would like to make is that if we
21 were talking about a project that would put lead

1 into the drinking water, every one of us in this
2 room would be outraged about such a project
3 proceeding. But yet that is what we are doing.
4 But instead of putting lead into drinking water,
5 we are putting crystalline silica construction
6 dust into our breathable air. We are putting
7 massive amounts of that silica dust, which is
8 recognized by the National Cancer Institute as
9 carcinogenic. And in what I passed out to you,
10 you'll see on page five, there's a cover sheet
11 from the National Cancer Institute.

12 This is the same type of silica dust
13 that poisoned the first responders after 9/11, and
14 many of which died sooner or later from horrendous
15 respiratory ailments and other consequences of
16 breathing silica dust that you are now going to
17 pump into our breathable air here in Montgomery
18 County.

19 This is a type of homicide, but it's
20 going to be very slow and it's going to have the
21 gloss or the let's say the frosting of being, oh,

1 well, this is going to reduce congestion, traffic
2 congestion. Well, guess what? From my
3 perspective -- and I was the recipient of a
4 lifetime achievement award at the world's Traffic
5 Safety Symposium in New York in 2011. This is
6 not a new subject to me. I live it, I breathe it
7 and I professionally have worked on it for close
8 to 50, that's five-zero, years.

9 This project is a travesty. It will
10 actually increase congestion. Now, when you have
11 four or five lanes funneling down to two lanes, as
12 you head north towards Frederick, the backup that
13 you get occasional backup it's, it's been
14 alleviated since the improvements were made on the
15 270. You're now going to say that it will be less
16 bottlenecking, less congestion, less backup
17 because instead of four or five lanes funneling
18 down to two, we're now going to have seven or
19 eight lanes funneling down to two.

20 I presented that problem to a group of
21 fifth grade boy Scouts, and every single one said,

1 it's going to make it a lot worse, mister. Can't
2 you all see that? That you're funneling more
3 vehicles into the same two lanes. And you're
4 saying, I hope intelligently from some analysis,
5 that that's going to solve the problem. My
6 colleagues in Europe would never have even
7 accepted this proposal for putting this in place
8 because it is not multimodal. You cannot
9 introduce a similar plan in Europe. You would be
10 laughed at because it does not include multimodal
11 transportation. Why is that so foreign to you?

12 Why must you protect Transurban and
13 Governor Hogan's plan to the detriment of our
14 citizens in their health and their economic
15 contributions that will have to be pledged for the
16 next 50 years to pay for this travesty? And then
17 from my viewpoint, as I try to conclude quickly
18 here, from traffic safety. I work on the actual
19 car crash cases. I want many funerals. I know
20 many families, I know many quadriplegics, burn
21 victims, et cetera, et cetera. You're going to

1 see more victims, by far, if this insane plan of
2 yours is, is approved to go ahead because the big
3 rigs which overwhelm the cars, the SUVs, and the
4 vans, will continue to get much worse because of
5 the lane shifting, including even the flyover
6 lanes from getting on and off the toll lanes to
7 the regular lanes.

8 So I want to now wrap up and say to you,
9 I wish I wouldn't have to be here. I loved the --

10 THE MODERATOR: Thirty seconds.

11 MR. BLOCH: Yes, I know, 28 seconds.

12 I'll make it quick. I moved here from California
13 from Los Angeles because my wife and I and our
14 three kids saw the handwriting on the wall. And
15 we're experiencing the lunacy in Los Angeles,
16 which has now been repeated in Houston; it's
17 underway in Miami; and God forbid, you want to do
18 this in Montgomery County.

19 I would say to you, if you want your
20 children and grandchildren, yourself to breathe,
21 safe fair, and to eliminate the tragic other

1 consequences of too much traffic, this project
2 must -- insanity -- this project must be canceled.

3 THE MODERATOR: Okay.

4 MR. BLOCH: Thank you very much.

5 THE MODERATOR: Thank you, Mr. Bloch.

6 I'm going to introduce Senator Cheryl Kagan here.

7 I just want to remind everyone that if you're here
8 and you have not yet signed up to provide
9 testimony, you still can, just go out to the
10 signup table. Just give them your name. They'll
11 bring me the card and I'll call you in the order
12 of the cards that I have.

13 So our next speaker will be Senator
14 Cheryl Kagan of District 17. After Senator Kagan
15 will be Shannon Brown. Senator Kagan, if you
16 could just state your name, spell your name,
17 provide your address and who you're representing.

18 SENATOR KAGAN: Thank you very much.

19 It's good to be back with you all. Welcome back
20 to Rockville. I'm Cheryl Kagan, very proud to be
21 the Senator for Rockville and Gaithersburg. I

1 live in Rockville. My office is in Annapolis and
2 I'm representing the residents of Rockville and
3 Gaithersburg. Obviously, not unanimously aligned
4 on this, but I'm here to once again, pose
5 questions about this project.

6 We have traffic problems. There's no
7 doubt. The question is what's the solution?

8 Who pays for it?

9 What the environmental implications are?

10 What the toll might look like and who
11 could ever be affording any of it? Could ever
12 afford to use this. I do want to recognize, in
13 case you haven't, that US Senator Chris Van Hollen
14 -- okay, you've already recognized that Ashima is
15 here. Okay, great.

16 So in my view, this project is not ready
17 for primetime. I'm going to rung through just
18 briefly why I think that is. So I am not a no,
19 no, never, never. I am a not this, and not now.

20 First, the pricey tolls. Some of you
21 have heard the story about how I was speaking at a

1 conference in Northern Virginia during rush hour,
2 accidentally got in the wrong lane and ended up
3 with a \$67 fee on my E-ZPass. That's astonishing
4 and far beyond anything I would choose or could
5 afford. It would be irresponsible for me to do
6 anything other than object to enormous projections
7 for tolls. And as people go farther up 270, they
8 may be less likely to be able to afford the tolls
9 for increased mileage.

10 Two, the Environmental Impact Statement
11 is broad and deep and raises significant
12 questions. I don't think that they have been duly
13 considered or adequately addressed, and it's our
14 job as stewards to make sure that we're taking
15 care of our environment. I don't think we do a
16 good enough job. I don't think this plan does a
17 good enough job at that.

18 Question 3, post-COVID job and commuter
19 patterns have changed. People are not traveling
20 during rush hour down to DC and sitting on 270 and
21 sitting on the Beltway to work from 9:00 to 5:00

1 anymore. They are telecommuting. They have
2 flexible hours. They rarely go in, and they are
3 happy to be working from home. I don't think that
4 the data for this project reflects post-COVID;
5 frankly, we're not fully in a post-COVID world
6 yet. And so I think we need to make sure that we
7 push the pause button and find out how many people
8 are actually going to be commuting on these
9 routes.

10 Fourth, federal infrastructure. A bill
11 that has now passed, we're talking about --
12 Senator Van Hollen and I were just talking this
13 afternoon, over \$8 billion -- that's billion with
14 a B -- is coming to Maryland. Projects like the
15 purple line, like this project and other
16 priorities, as well as funding for our Metro, Marc
17 and other transit priorities must be carefully
18 analyzed. I don't think that has been done.

19 Number five, mass transit has not
20 adequately been engaged for this project.
21 Conversations about the monorail about bus rapid

1 transit, about reversible lanes, there are other
2 questions and other creative solutions that I
3 think have not been adequately explored. And I
4 know that you all are not necessarily the ones who
5 are going to be doing the deepest dive into this.
6 It's about community engagement. And I want to
7 say from the very beginning, when Governor Hogan
8 notified legislators, literally the afternoon
9 before his announcement press conference kickoff,
10 which he held on a Jewish holiday, one of our high
11 holy days, he has not reached out.

12 There has not been collaboration. There
13 has not been communication or cooperation. And
14 this project reflects that. This needs to be a
15 three-legged stool and without a construction
16 consultant, only two legs of the stool are even in
17 place to move forward.

18 We're getting a new governor next year.
19 We're going to have a new comptroller. The board
20 of Public Works is changing. We have a new
21 treasurer now. The entire infrastructure of our

1 leadership will be changing. Please don't make
2 our new governor inherit a project that is not
3 ready for primetime; that does not have all of the
4 partners at the table ready to go; that has an
5 enormous environmental impact; has fiscal burden,
6 not only on our taxpayers, but on our residents.
7 Please push the pause button. Please let's take a
8 second look and make sure this is the right
9 project and figure out how to make it work and how
10 to address our traffic woes.

11 Thank you so much for being here. Thank
12 you for attention.

13 THE MODERATOR: Thank you, Senator
14 Kagan. Next up will be Shannon Browne. After
15 Shannon Browne -- Shannon Browne will be
16 representing the University of Maryland
17 Environmental Science and Technology. And then we
18 will hear from Kyle Hart with the national park
19 Conservation Association.

20 So if you could please state your name
21 and spell your name, provide your address and

1 again, the organization you're representing.

2 DR. BROWNE: With pleasure. My name is
3 Dr. Shannon Browne, S-H-A-N-N-O-N, B-R-O-W-N-E,
4 silent E. My address, my work address is
5 University of Maryland, Environmental Science and
6 Technology, 8127 Regents Drive, Office 1459,
7 Department of Environmental Science and
8 Technology, College Park, Maryland 20742.

9 THE MODERATOR: Just again, just repeat
10 the organization --

11 DR. BROWNE: University of Maryland
12 Environmental Science and Technology.

13 THE MODERATOR: Thank you.

14 DR. BROWNE: Just to add a little bit of
15 credentials, I have a bachelor's degree from Texas
16 A&M, master's degree from Virginia Tech, and PhD
17 from the University of Maryland. So I'm here to
18 speak as an expert witness in wildlife biology,
19 and I want to thank you for notifying the public
20 about today's public hearing.

21 I want to specifically address the

1 second part of the announcement. Specifically
2 quoting, "Review of this application indicates
3 that proposed work is not likely to adversely
4 affect federally listed threatened, or endangered
5 species or their critical habitat. Pursuant to
6 Section 77 of Endangered Species Act of 1973. And
7 I would like to step you through why this
8 statement is inaccurate.

9 When we look at Appendix M from the
10 final Environmental Impact Statement printed as of
11 today at noon, I will read the statement.

12 "Detectors -- at detectors were placed
13 within four stands mapped as more likely and less
14 likely suitable habitat areas within Phase I south
15 portion of the corridor study boundary during June
16 and July 2020. Each acoustic survey location was
17 surveyed at least twice. And all the recorded
18 call data were analyzed using Kaleidoscope Pro,
19 made by Wildlife Acoustics, acoustic
20 identification software."

21 In those two sentences, I find many

1 issues. First of all, someone is identifying four
2 stands as potential survey locations. Forested
3 areas are already biasing the potential species of
4 bats that we could potentially survey as being
5 present or absent. So we're already eliminating
6 specific endangered or threatened species that
7 don't live in forested areas.

8 Second, more or less suitable habitat
9 areas. Again, someone is deciding in determining
10 in advance, what is more or less suitable habitat.
11 Out of the 10 species recorded in Maryland and in
12 the DC and Northern Virginia area, someone is
13 determining what's more or less suitable habitat.
14 Each 10 species is unique. They all have their
15 own unique habitat areas. Which species are we
16 identifying or are we trying to survey in these
17 habitat areas?

18 We're identifying them twice using
19 Kaleidoscope Pro. Kaleidoscope Pro is an
20 automated software program, much as other software
21 programs that we're used to using, there are

1 errors. Okay. There's always going to be errors
2 in automation. Okay. So there's already made
3 biases in identifying which species are present or
4 absent based on which identification program
5 software that we're using, also which bat detector
6 are we using?

7 Which microphone are we using?

8 How high up is the microphone?

9 What direction is the microphone?

10 What's the humidity level?

11 What's the temperature? All of those

12 factors can influence what species, acoustic
13 recordings, the sound waves as they're screaming
14 out and echolocating what sound waves are being
15 recorded. And therefore, what species are being
16 identified is present or absent. All of those are
17 determined based on those specific details.

18 Later in that appendix, it refers us to
19 Appendix P: rare, threatened and endangered back
20 ridge and acoustic surveys and wood turtle survey.

21 Page one, blank. Page two, blank. Our survey

1 methods are missing, yet somehow are total results
2 are 15,059 bat calls at 16 sites in the preferred
3 Alternative LOD. Where are those sites?

4 What methods were used? We will never
5 know because it's missing in Appendix P.

6 Biologists conducted acoustic data
7 analysis on behalf of MDOT SHA for the tricolored
8 little brown bat in the Virginia portion of the
9 preferred Alternative LOD. Using the data
10 collected in 2020 for the Northern long-eared bat
11 and Indiana bat, acoustic survey. What bat
12 biologists?

13 How were they trained?

14 Are they adequately trained to identify
15 specific species of bats? We will never know
16 because that data is missing.

17 They're using data to analyze different
18 species when the original process was to look for
19 Northern long-eared bat and Indiana bats. So are
20 currently threatened and endangered species, which
21 live in very different habitats. From our

1 upcoming threatened and endangered species: our
2 tricolor bat, our little brown bat. So our other
3 Miota species, and in the state of Maryland, all
4 of our species of those various conservation
5 species are listed.

6 Those surveys were not based on
7 recording all species present, only two species.
8 So already the data is very likely biased. I've
9 done some preliminary data and I've already found
10 some tricolored bats. So in my professional
11 opinion, we definitely need to take a pause, as
12 the senator mentioned, stop, regroup, spend plenty
13 of time identifying potential habitat. Also what
14 species are present, what species may be absent.

15 THE MODERATOR: Dr. Browne, you need to
16 wrap up.

17 DR. BROWNE: We need to do a decent job
18 before we state that there are no threatened or
19 endangered species in our project area.

20 Thank you.

21 THE MODERATOR: Thank you, Dr. Browne.

1 Our next speaker will be Kyle Hart. After Kyle
2 will be Sally Stolz.

3 Mr. Hart, if you could state your name,
4 spell your name, provide your address and the
5 organization that you are representing.

6 MR. HART: Yeah. My name is Kyle Hart,
7 K-Y-L-E, H-A-R-T. I'm with the National Parks
8 Conservation Association, also known as NPCA.
9 NPCA's address, which I think is the relevant
10 address is 777 Sixth Street, Northwest,
11 Washington, DC. Suite 700. Zip code is 20001.

12 And of course, tonight I'm here on
13 behalf of NPCA. For those of you that don't know
14 us in NPCA is a nationwide nonprofit dedicated to
15 protecting and enhancing America's national parks
16 for present and future generations.

17 We've been upholding this mission since
18 1919 when we were founded. We have more than 1.7
19 million members and supporters nationwide, and
20 34,000 of those members and supporters are here in
21 Maryland. I am here tonight as I have been at

1 other hearings in the past in opposition to the
2 proposed expansion of I-495 and I-270, the
3 preferred alternative, Alternative 9 Phase I
4 South. We call on the Army Corps of Engineers to
5 reject MDOT's Joint Permanent Permit Application
6 for this disastrous project.

7 First and foremost, NPCA as I mentioned,
8 has a long track record of opposing this project
9 right out of the gate, the project would
10 negatively impact 30 acres of Parkland, including
11 more than 16 acres of National Sark Service
12 property. Ten different historic properties would
13 be negatively impacted, 455 acres of forest
14 cleared, four acres of wetlands filled in, and
15 nearly eight miles of waterways will be negatively
16 impacted.

17 All of these impacts will essentially
18 amount to a few minutes removed off of some
19 commute times. Though the EIS, the final EIS
20 points out that in some locations travel speed
21 will actually get worse. So we view this level of

1 negative impacts sort of balanced against
2 potential gain is sort of out of touch.

3 As you all know, the Army Corps of
4 Engineers is an obligation to only approve the
5 least environmentally damaging practical
6 alternative of a project proposal. And in our
7 view, this preferred -- this project and the
8 preferred alternative simply doesn't fit that
9 requirement.

10 In the final Environmental Impact
11 Statement prepared by federal highways and MDOT,
12 the project's purpose and need highlighted many
13 notable things, improving trip reliability,
14 reducing ingestion. These are all admirable
15 goals, admirable goals that NPCA will happily
16 support. However, as has been discussed earlier
17 this evening, our big concern is the FEIS's stated
18 purpose and need also includes and hinges itself
19 upon financial viability, i.e., somebody else is
20 willing to pay for these upgrades.

21 In fact, way back in, I believe, October

1 of last year, the draft Environmental Impact
2 Statement actually simply just tossed out numerous
3 alternatives, simply because they did not fit this
4 financial viability analysis. The DEIS simply
5 removed options like traffic management,
6 reversible lanes, telework transit alternatives
7 from the outset simply because they knew that a
8 concessionaire would not put the bill for these
9 improvements.

10 However, in the Joint Permit Application
11 before you today, financial viability is not
12 mentioned, it's completely left out. We agree
13 with that assessment. We should be looking at
14 this project from only the lens of trip
15 reliability and congestion alone, not predicating
16 the entire conversation around financial
17 viability.

18 When the Army Corps of engineers looks
19 at this project through the purpose of need of
20 only trip reliability and reducing congestion,
21 they will find that the chosen preferred

1 alternative is not actually the least
2 environmentally damaging, rather, a combination of
3 several solutions, trends and improvements,
4 traffic management and more, would accomplish this
5 need without the proposed toll lanes.

6 I would also like to call the arm Corps'
7 attention to the future and cumulative impacts of
8 this project which must be considered before
9 advancing a permit. As we have commented before,
10 MDOT and federal highways incorrectly states that
11 the final Environmental Impact Statement and those
12 incorrect statements are then again, repeated in
13 this JPA that the preferred alternative eliminates
14 a large portion of impacts to national parks,
15 waterways, wetlands, forest, and more. They
16 accomplished this, they claim, by reducing the
17 scope of the proposed highway widening, stopping
18 the project at the I-495, 270 spur, instead of
19 continuing all the way around 495.

20 This is simply a falsehood. MDOT's own
21 website for the op lanes continues to show the

1 widening of 495 from the 270 spur, all the way to
2 the Potomac river crossing east of Washington, DC
3 as "future phases."

4 THE MODERATOR: Thirty seconds.

5 MR. HART: These are not eliminated
6 impacts as they are viewed and discussed in the
7 JPA, but rather future impacts, and must be
8 addressed as such. These are cumulative impacts
9 and it is the duty of the Corps to consider them
10 during this permit application and not at a later
11 date. It is for these reasons and many more laid
12 out by our partners this evening that the Army
13 Corps of engineers should deny, And if not deny,
14 delay and not submit a Joint Permit Application.

15 Thank you for your time this evening.

16 THE MODERATOR: Thank you, sir. Our
17 next speaker will be Sally Stolz. After Sally
18 will be Donna Gentry. Sally is with
19 dontwiden270.org.

20 MS. STOLZ: I'm handing out pictures
21 because pictures says a thousand words and you

1 will be able to follow along.

2 THE MODERATOR: Ms. Stolz, if you could
3 state your name, spell your name, your address,
4 and the organization you are representing.

5 MS. STOLZ: Okay. I'm Sally Stolz.
6 Okay. That's spelled S-A-L-L-Y, S-T-O-L-Z. I
7 live at 5 Loch Ness Court, Rockville, Maryland.
8 And I am representing the grassroots organization
9 dontwiden270.org. Okay.

10 I'm a co-coordinator of the grassroots
11 organization, dontwiden270.org. I've lived in
12 Rockville for 40 years, and I am here to request
13 that this joint permit be denied.

14 Almost exactly five years ago today,
15 Governor Hogan announced his \$11 billion plan to
16 build a toll road down the middle of I-270 and I-
17 495, but about six months earlier, he had just
18 announced the \$100 million I-270 innovative
19 congestion management project, a totally separate
20 Maryland department of transportation project that
21 broke ground in March 2017.

1 Your first page is a photo of the I-270
2 innovative congestion management project homepage
3 on its website. The next page from the same I-270
4 innovative congestion management project website
5 gives an overview of the project. The diagram is
6 titled, The Power of Go. The circle in the lower
7 left shows that by extending merge lanes, there
8 are now three local lanes on most of lower 270.
9 And in addition, one new general lane was added to
10 each side. The result of seven or eight lanes on
11 each side of lower 270 was a huge success.
12 Vehicles move freely on lower I-270, thanks to the
13 I-270 innovative congestion management project.
14 Lower I-270, got a lot of traffic relief for the
15 price, but Governor Hogan and MDOT never talk
16 about this very successful project. How could
17 they justify building the toll road when traffic
18 was already moving freely in exactly the place on
19 lower I-270 where they wanted to build it?

20 Please look at the next page. A picture
21 of a slide prepared by the Maryland Department of

1 Transportation for a Zoom presentation in zoom of
2 this year for the Fallswood Community in
3 Rockville. The words by the graphic make an alarm
4 make alarming generalizations about regional
5 traffic but ignore the reality of the lack of
6 congestion on lower I-270.

7 However, the graphic shows that exactly
8 where the toll road would be built, traffic moves
9 between 45 and 60 miles per hour in peak rush
10 hour. It slows down to 30 to 45 miles per hour
11 just at the I three 70 interchange, and then north
12 of there becomes very slow. That is where relief
13 is needed, not on lower I-270.

14 If the toll road is built on lower I-270
15 as proposed, there will be fewer general lanes and
16 the smooth sailing traffic will be reduced to a
17 crawl. Safety will also be reduced, as most
18 trucks would opt for the general lanes. And
19 during the five or more years of construction, it
20 will be a nightmare. All of Rockville's five
21 bridges would be torn down and the list of

1 destruction goes on and on.

2 Please look at the next page, which is
3 from the same MDOT presentation to Fallswood. By
4 2045, the speed in the general lanes from 4:00 to
5 5:00 P.M. from the George Washington Parkway to
6 Falls Road, approximately 11 miles, would be 27
7 miles per hour if the toll road is not built, but
8 only 21 miles per hour, if the toll road is built.
9 That's six miles per hour slower if the toll road
10 is built.

11 And from 5:00 to 6:00 P.M., the speed on
12 the same stretch would be eight miles per hour for
13 both the no-build option, as well as the build
14 option. Absolutely no improvement. And at 6:00
15 to 7:00 P.M., there is a one mile per hour advantage
16 if the toll lanes are built. One mile per hour.

17 All that money in misery for a worse
18 evening commute than if the toll legs were not
19 built. Clearly, this is not the right plan. But
20 why would MDOT push such a cruel plan?

21 Well, one of the main reasons is it will

1 not bring better commutes in the general lanes is
2 because of the new bottlenecks it will create
3 where the toll road ends.

4 Remember the \$11 billion project from
5 2017? It got paired down because of the horrific
6 damage it would cause on the north side of I-495.
7 MDOT's ROD announcement contains a box showing the
8 impact reductions that resulted from pairing down
9 the project into what is now called phase one
10 south.

11 These reductions in negative impacts
12 seem to be the main reason the project received
13 the ROD, but they are temporary. In the ROD
14 announcement, MDOT states, "No action or
15 improvements would be included at this time on I-
16 495, east of I-270. And on the homepage of MDOT's
17 Op Lanes website, the part of the original
18 project, which would cause such harm as labeled as
19 "future phases."

20 THE MODERATOR: Thirty seconds.

21 MS. STOLZ: By allowing Phase I to be

1 built, our decisionmakers are ensuring that the
2 rest of the harmful project will be green-lighted
3 because this part of the project creates such an
4 intolerable bottleneck where the toll lanes would
5 end at Old Georgetown road. This project is not
6 in the public interest. If it stops at old
7 Georgetown road, the bottleneck is intolerable.
8 If it is extended over the rest of I-495, the
9 environmental destruction is intolerable.

10 THE MODERATOR: Please wrap up.

11 MS. STOLZ: And it doesn't solve
12 congestion. There is no acceptable outcome, it
13 simply must not happen. Please deny this permit.

14 THE MODERATOR: Thank you, Ms. Stolz.
15 Our next speaker will be Donna Gentry. After
16 Donna will be Arthur Katz.

17 Donna, please state your name, spell
18 your name, provide your address, please.

19 MS. GENTRY: Good evening. I'm Donna
20 Gentry. D-O-N-N-A, G-E-N-T-R-Y. I'm just a
21 three-minute citizen and speaking from the heart.

1 Okay. First of all, I do want to thank
2 the US Army Corps of Engineers and the Maryland
3 Department of the Environment for this opportunity
4 this evening. I believe you should not approve
5 these applications because they lack specific
6 mitigation plans that the construction company
7 agrees to carry out.

8 While I'm grateful to MDOT and Op Lanes
9 for preparing their detailed applications, they
10 are incomplete. While they acknowledge the
11 environmental impacts of both the during and after
12 construction stages, they are vague about specific
13 mitigations.

14 In their words, the developer will be
15 incentivized to reduce wetland stream and other
16 environmental impacts. Let's tease that apart.
17 This application acknowledges all those
18 environmental losses, things like tree removal,
19 loss of habitat, contamination of surface water,
20 the removal of the vegetative buffer, flood risks,
21 et cetera.

1 So while the WQA proposes standard
2 mitigation strategies that you can find in any
3 environmental science textbook, it states further
4 details will be provided once a developer has been
5 selected. Let's think about that.

6 We know that this is a public private
7 partnership. The state will rely on this private
8 business to build finance, operate, and maintain
9 the roadway. But private businesses are mostly
10 incentivized by profits. Profits for their
11 investors. What's in it for me?

12 Are we so naive to believe that they
13 won't try to maximize profits at the expense of
14 public and environmental health?

15 Op Lanes says that adding the optional
16 toll lanes will remove traffic from local roads,
17 but this is not supported by the facts. Just look
18 at a Google map during rush hour, look at where
19 they added the toll lanes in Virginia and where
20 there is merger access lanes. There's even more -
21 there's even more congestion.

1 THE MODERATOR: Thirty seconds.

2 MS. GENTRY: Thank you. We're at a
3 historic point. Today, we know so much more about
4 the environmental impacts of road widening,
5 increased contamination, et cetera. Yes, we have
6 an opportunity to delay the approval of these
7 documents. Yes, they are detailed and slick with
8 colorful maps and tables, but they are incomplete.

9 THE MODERATOR: Please wrap up, ma'am.

10 MS. GENTRY: Thank you. Thank you.

11 THE MODERATOR: Thank you, Ms. Gentry.
12 Our next speaker will be Arthur Katz and after
13 Arthur will be Kristin Gamzon-Cook.

14 Mr. Katz, if you could please state your
15 name.

16 MR. KATZ: A-R-T-H-U-R, K-A-T-Z. I live
17 at 2 Steven Circle in Rockville, Maryland. I am
18 speaking for myself at this point.

19 THE MODERATOR: Go ahead.

20 MR. KATZ: I urge the Corps to reject
21 the application in its current form. As some

1 speakers have already said, the project will
2 create an overwhelming choke point in Maryland
3 between the I-270 spurs on the Beltway. And
4 therefore, the current analysis is not valid. The
5 current -- the choke point will be so overwhelming
6 that it will create a powerful political impetus
7 to build the remaining toll lanes towards the
8 Woodrow Wilson Bridge. In that context, the
9 current analysis inadequate because it essentially
10 examines half the story.

11 In Boston, we call this the Salami
12 Strategy. You break up the project into small
13 pieces so the public doesn't see the full
14 implications of the current decision. To give you
15 a sense of the problem, if you have ever driven
16 home from Dulles Airport in the evening on the
17 beltway towards Maryland, you know what a choke
18 point is, where the toll lanes end and before.

19 Virginia will transfer that mess at the
20 end of its to lanes to a choke point between the
21 I-270 spurs and that will back up traffic to the

1 I-270/495 split, disrupting both highways, hence,
2 the overwhelming political impetus.

3 And in fact, if you look at the analysis
4 -- and I've done a lot of analysis, I'll send it
5 to you separately -- but if you look at the
6 analysis, you realize that it's many trips are
7 actually on the order of 10 minutes longer in what
8 they call the general purpose lanes. The lanes
9 that are not part of the -- not the toll lanes,
10 but the other part of the highway.

11 There, in the evening, these are
12 overwhelmingly destructive and disruptive changes.
13 But even in this project, the project actually
14 shows that it it's so overwhelming that the toll
15 lanes themselves creative a problem. It takes
16 four minutes to go from the GW Parkway to the west
17 I-270 spur in the MDOT analysis.

18 But if you go the last two lanes -- two
19 miles from I-270 west spur to the end of the toll
20 lane, it takes 14 minutes. So you go from
21 speeding along at an over the speed limit at 62

1 miles an hour plus to 8.5 miles an hour for the
2 last two miles.

3 THE MODERATOR: Thirty seconds.

4 MR. KATZ: So it's a tremendously
5 disruptive choke point. And the minute it opens,
6 the minute this highway opens, you will have to
7 have a tremendous political impetus to build the
8 rest of it. And all the other impacts on
9 floodplains and parkland, and residents will be
10 driven by this change. So it's not a reasonable
11 understanding but to look at the current situation
12 along with the current Phase I.

13 Thank you.

14 THE MODERATOR: Thank you, Mr. Katz.
15 Next up will be Kristin Gamzon Cooke. If you
16 could state your name, spell your name, and your
17 address, please.

18 MS. GAMZON-COOK: Sure. My name is Kristen
19 Gamzon Cooke. It's K-R-I-S-T-I-N, G-A-M-Z-O-N.
20 Cook is C-O-O-K. And I reside at 9408 Jongroner
21 Court in Potomac 20854.

1 I'm a little embarrassed because my
2 testimony is so not very well formed because I had
3 not really any notice. I had found out about this
4 hearing last night. And I have written testimony
5 before on the subject matter. I have made phone
6 calls, I've signed petitions. So I am out there.
7 I mean, I have given a lot of input. And so to
8 find out about this last night from an advocacy
9 group is very disappointing. So I think this room
10 would be full if we really knew about this
11 hearing. And my testimony is going to reflect
12 that I'm not prepared.

13 But anyway, obviously I respectfully
14 request that you do not grant approval for this
15 alteration of any floodplain waterway, tidal or
16 nontidal wetland in Maryland. The Beltway
17 expansion is being pushed through by an
18 administration that is hell bent on getting their
19 way, despite all the evidence that this will be an
20 environmental disaster and a massively expensive
21 project of epic proportions.

1 As a reminder, the project will pollute
2 local streams and creeks. This is what we're here
3 to talk about, the local streams and creeks, the
4 Potomac River and ultimately, the Chesapeake Bay
5 since MDOT plans to treat only apparently 45
6 percent of the stormwater runoff. I'm not sure I
7 understand that.

8 This project will kill 500 acres of
9 forest from Parkland and other green spaces when
10 the timing could not be worse because our
11 president is on the verge of declaring a climate
12 emergency. In a time when one-third of Pakistan
13 is under water and California's heat wave, which
14 started just before Labor Day weekend has already
15 broken at least dozen temperature record of
16 California as the state battles, drought, fire,
17 and water shortages.

18 In a time when one in six tree species
19 are at risk of extinction, that's when we give the
20 green light for irreparably harming our local
21 forest?

1 Really? I mean, this is the definition
2 insanity. I just -- it's just unfathomable that
3 you would even consider this. Bottom line,
4 there's too much missing information to go forward
5 with as GPA -- JPA. Sorry. Excuse me -- as well
6 as too much evidence that this project won't help
7 drivers in the general purpose lanes, as well as
8 too many questions about the environmental and
9 fiscal negative impacts.

10 I'll leave you this last thought. Why
11 don't highways don't fix congestion?

12 That's not that great of an example.
13 But anyway, if your bathtub is about to -- just
14 about ready to overflow, you don't build yourself
15 a bigger bathtub, you turn off the spicket.

16 Anyway, thank you.

17 THE MODERATOR: Thank you very much. At
18 this point, we do not have anyone else who has
19 signed up to provide testimony. I want to remind
20 everyone in the room that the comment period will
21 remain open until 11:59 P.M. on September 29, 2022.

1 We do have our poster session in the
2 next room. We do have staff there that you can
3 interact with and ask questions of and review the
4 information. This hearing will remain open.
5 However, we're going to go into recess and I'll
6 come back periodically to update whoever's in the
7 room about where we're at.

8 If we do receive anyone who wants to
9 provide testimony, we will immediately reconvene,
10 hear that person's testimony and anyone else who
11 signed up and then continue on in recess.

12 Again, in addition to making oral
13 comments, you can provide written comments. There
14 are multiple ways to provide comments as long as
15 those are done by that date I just mentioned. So
16 at this point it is 7:55 P.M. and we are in recess.

17 (Whereupon, at 7:55 P.M., an intermittent
18 recess was taken.)

19 THE MODERATOR: It is 8:40 P.M. We're
20 going to come back from recess. We do have an
21 individual who would like to provide testimony.

1 Just as a reminder, you'll have three minutes for
2 the testimony. If you could just state your name,
3 spell your name, and provide your address. And it
4 is Shannon Browne. Go ahead.

5 DR. BROWNE: Correct. So I'm Shannon
6 Browne, S-H-A-N-N-O-N, B-R-O-W-N-E. 1429
7 Mayflower Drive, McLean, Virginia 22101. So I'm
8 testifying as an individual living in Virginia and
9 as a commuter from Virginia over to Maryland on a
10 daily basis.

11 So I drive over most of the time over
12 the American Legion bridge to get over 495, over
13 to work. Occasionally it may be closed or many
14 lanes are closed or the whole thing may be closed
15 for certain reasons. And so I have to find
16 alternative routes.

17 So I grew up in Maryland. Yes, I went
18 to college outside for some of my school, but it
19 came back to the area. I know the area very well.
20 I know many, many routes to get to and from work.
21 And almost every day I drive over Plummerville Island.

1 It holds a very special place in my heart.

2 You have already heard some history
3 about the island, how it had been privately-owned
4 by the Washington Field Biologist Club, then it
5 returned to federal property. But it is still
6 managed by the club. It has a lot of unique flora
7 and fauna. It also has several unique habitats.
8 So there are cliff faces, there are dense forested
9 areas. There are meadow areas. We have water
10 areas, many different vegetation types looking at
11 remote sensing data and looking at maps that have
12 been created on the ground. There's basically 12
13 different, 12 to 15 different unique habitat
14 types. And we have 10 species in our area. Each
15 bat species thrive in different habitat types.

16 So it's not surprising, when I look back
17 through the literature over the last 120 years,
18 all 10 species of bats have been captured on the
19 island. So it breaks my heart knowing as I'm
20 driving over the Beltway, that my commute time may
21 potentially be cut down, or the goal is to be cut

1 down, but detriment of up to 10 different bat
2 species because bat species are imperiled. Half
3 of them are imperiled due to a skin fungus called
4 whiteness syndrome. The other half are imperiled
5 due to migrating during wind that's at the same
6 time as we get our most wind energy.

7 So they're damned if they hibernate in
8 winter or they're damned if they migrate somewhere
9 during heavy winds in winter. Either way we're
10 decimating our bat populations and we need to do
11 what we can to try to help save their habitats.
12 So encroaching on Plummerville Island is the last
13 thing we need to do. And as a commuter, I'm happy
14 keeping my commuting time, adding a few more
15 minutes to my commuting time, as long as it means
16 I'm doing what I can to help the bat species. And
17 that's just one tax. There are so many more
18 species that haven't been identified yet.

19 THE MODERATOR: Thirty seconds.

20 DR. BROWNE: I appreciate everyone's
21 time. I appreciate the initiative behind this

1 program. There are viable alternatives that have
2 been mentioned tonight promoting public transit,
3 promoting teleworking. So promoting these other
4 alternatives, besides widening the lanes or
5 creating toll lanes, these are all viable
6 alternatives that don't appear to have been
7 addressed with as much emphasis as they could.
8 And I hope that we've been able to provide
9 rationale as to why there should be more emphasis
10 on those other options.

11 Thank you.

12 THE MODERATOR: Thank you. So right
13 now, it is 8:44 P.M. We do not have anyone else
14 who has signed up to provide testimony. So we are
15 going to go into recess until someone else shows
16 up to provide testimony.

17 As a reminder, the public comment period
18 will remain open until 11:59 P.M. on September 29,
19 2022. So again, right now it's 8:45 and we are in
20 recess.

21 (Whereupon, at 8:45 P.M., an intermittent

1 recess was taken.)

2 THE MODERATOR: Okay. It is
3 approximately 9:30 right now. We have not had
4 anyone else come in to provide testimony, and this
5 is the time that the hearing was scheduled to
6 close. So at this point, we are going to close
7 the hearing.

8 On behalf of the army Corps of Engineer
9 and the Maryland Department of the Environment. I
10 want to thank everyone who took the time to come
11 out and provide comments. This hearing is now
12 closed.

13 A reminder that the that the comment
14 period will remain open until 11:59 P.M. on
15 September 29, 2022. And we will be having a
16 virtual public hearing next Wednesday, September
17 14th. You do need a preregister in order to
18 provide testimony at that hearing. So this
19 hearing for tonight is now closed. Thank you.

20 (Off the record at 9:31 P.M.)

21

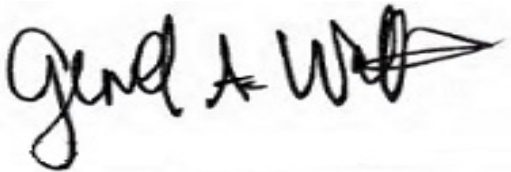
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CERTIFICATE OF ELECTRONIC REPORTER
NOTARY PUBLIC

I, GERVEL A. WATTS, the officer before whom the foregoing public hearing was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me, electronically, and thereafter reduced to typewriting under my direction.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 26th day of September 2022.

My commission expires: June 7, 2024



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