



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401

September 29, 2022

U.S. Army Corps of Engineers  
Baltimore District  
Attn: Mr. Nicholas Ozburn  
2 Hopkins Plaza  
Baltimore, MD 21201

Maryland Dept. of the Environment  
Wetlands and Waterways Program  
Attn: Mr. Steve Hurt  
1800 Washington Blvd., Suite 430  
Baltimore, MD 21230-1708

Dear: Mr. Ozburn and Mr. Hurt:

As members of the Maryland General Assembly, we write with respect to the Joint Permit Application submitted by the Maryland Department of Transportation (MDOT) for the I-495 and I-270 Phase I South toll lanes. The notice soliciting comments states that a broad range of impacts and public interest factors would be considered, in addition to impacts to waterways and wetlands. While we have many concerns about this project and its impacts, below we highlight a few of the issues you should be aware of as you consider permits for this project.

Purpose and Need and Reasonable Alternatives

The Purpose and Need Statement for the toll lanes project was inappropriately circumscribed by including the need to “provide additional roadway travel choices” and the goal to “incorporate alternative funding sources to achieve financial viability.” This need and goal precluded the possibility of addressing congestion through means other than adding lanes through a public-private partnership. Other reasonable means to address congestion and trip reliability would have fewer harmful impacts and have promoted the public interest. These include innovative congestion management, travel and demand management techniques, transit, flexible hours and telework, all of which were discussed in this project’s environmental documents. The Supplemental Draft Environmental Impact Statement included the following statement on page 146 of [Appendix B](#):

“Traffic flow theory and longstanding empirical data have established that when demand exceeds capacity and traffic operations are in unstable or saturated conditions, a small reduction in demand results in a disproportionate improvement in speeds. As such, strategies to marginally reduce single occupancy vehicle (SOV) demand during peak demand, via flexible work schedules, pricing or ridesharing (including express bus

service) are effective ways to address peak period congestion, conserve energy and reduce emissions.”

### Cumulative and Future Impacts

It is essential that the cumulative and future impacts of the full plan to add toll lanes to I-270 and I-495 be considered. The impacts are not just those specified in the Final Environmental Impact Statement (Final EIS), but also include impacts that will result from the completion of all phases of the toll lanes project. For now, MDOT is proceeding with Phase I South. But, in the future, MDOT intends to extend the toll lanes north to I-70 and from the I-270 spur through Prince George’s County, as shown by the map on the opening page of MDOT’s [Op Lanes](#) web site.

In fact, MDOT and the Virginia Department of Transportation (VDOT) are already cooperating on a [study](#) of the proposed I-495 Southside Express Lanes which would add toll lanes to I-495 from Springfield, Virginia, across the Woodrow Wilson Bridge to Maryland Route 210 in Prince George’s County. This project would be managed by VDOT, yet includes the construction of lanes in Maryland. Rather than conducting a full EIS, Virginia plans to conduct a less comprehensive Environmental Assessment.

MDOT claims that it has eliminated impacts to parkland, streams, wetlands, forests and historic resources by paring the project down to the Phase I South limits. But the more extensive environmental impacts are not eliminated under MDOT’s plans, they are simply postponed, and must be considered. Furthermore, the dramatic increase in impervious surface and reduction in tree canopy will exacerbate vulnerability to climate change and extreme weather events, such as storms and heat waves.

### Water Quality Impacts

The construction of Phase I South toll lanes would cause significant degradation of water quality in Montgomery County in areas adjacent to the highways. However, the mitigation plan would allow mitigation at the broader HUC 8 watershed level, across all of the Middle Potomac-Catoctin watershed. As a result, impacts of the project could be offset by stream restoration as far away as Jefferson County, West Virginia or Clarke County, Virginia. The proposed suite of compensatory mitigation steps included in the plan relies heavily on the purchase of credits for the restoration of streams in Frederick County, providing no benefit to streams that will be degraded by the toll lanes. Similarly, the two in-county mitigation projects offered are the Cabin Branch Stream Restoration and Wetland Mitigation Site and the Unnamed Tributary to Great Seneca Creek Stream Restoration Site. Both are located in the Middle Potomac-Catoctin HUC 8 watershed, but not within the Cabin John watershed where the impacts would occur.

The higher cost of land and the amount of infrastructure present in watersheds adjacent to the highways may make the cost of restoration more expensive. But the concessionaire should be required to make investments to mitigate the flooding and degradation of water quality where it would occur.

For all these reasons, we urge the U.S. Army Corps of Engineers to deny these permits.

Sincerely,

Senator Joanne C. Benson, Chair of the Rules Committee  
Senator Paul G. Pinsky, Chair of the Education, Health and Environmental Affairs Committee  
Senate William C. Smith, Jr., Chair of the Judicial Proceedings Committee  
Senator Ronald N. Young, Chair of the Executive Nominations Committee  
Senator Pamela Beidle  
Senator Jill Carter  
Senator Ben Kramer  
Senator Clarence Lam  
Senator Susan C. Lee  
Senator Jeff Waldstreicher  
Senator Mary L. Washington  
Delegate Kumar P. Barve, Chair of the Environment and Transportation Committee  
Delegate Anne Healey, Chair of the Rules and Executive Nominations Committee  
Delegate Joseline Pena-Melnyk, Chair of the Health and Government Operations Committee  
Delegate Heather Bagnall  
Delegate Regina T. Boyce  
Delegate Benjamin Brooks  
Delegate Jon S. Cardin  
Delegate Alfred C. Carr, Jr.  
Delegate Charlotte Crutchfield  
Delegate Jessica Feldmark  
Delegate Diana Fennell  
Delegate Catherine Forbes  
Delegate Julian Ivey  
Delegate Steve Johnson  
Delegate Ariana Kelly  
Delegate Marc Korman  
Delegate Cheryl S. Landis  
Delegate Mary Lehman  
Delegate Mary Ann Lisanti  
Delegate Lesley J. Lopez  
Delegate Sara Love  
Delegate Eric Luedtke  
Delegate Maggie McIntosh  
Delegate Mike McKay  
Delegate David Moon  
Delegate Julie Palakovich Carr

Delegate Edith J. Patterson  
Delegate Shane Pendergrass  
Delegate Pamela E. Queen  
Delegate Kirill Reznik  
Delegate Sandy Rosenberg  
Delegate Sheila Ruth  
Delegate Jared Solomon  
Delegate Dana Stein  
Delegate Vaughn Stewart  
Delegate Kriselda Valderrama  
Delegate Alonzo T. Washington  
Delegate Courtney Watson  
Delegate Jheanelle K. Wilkins  
Delegate Nicole A. Williams, Esq.  
Delegate Karen Lewis Young