

Beltway Expansion Project DEIS - Key Issues of Concern

The proposed I-495 and I-270 beltway expansion draft environmental impact statement (“DEIS”) presents incomplete and inadequate analyses, but even the inadequate information presented shows that the project will harm Maryland citizens and their environment and cannot be justified.

Cost and Impacts to Public and Private Property

- Despite promises that the proposed expansion will pay for itself through managed toll lanes, the DEIS shows that the build alternatives might require a state subsidy paid to the developer ranging from \$482 million to more than \$1 billion. This subsidy does not include the billions of taxpayer dollars needed to fund the required relocation of water and sewer infrastructure, nor does it account for the cost of adequate environmental mitigation. No itemized budget has ever been shared and the only one mentioned in the DEIS was a calculation based on lane miles, not one that gave estimated costs for the 1-70 bridges to be redone or any specific infrastructure or mitigation costs.
- Counter to project proponents’ claims that the proposed expansion would not impact private homes, the DEIS shows that each of the build alternatives would require the government taking and relocating 25-34 homes. It would also destroy hundreds of acres of parkland and historic properties, and would directly affect nearly 1,500 properties.
- The decision to proceed with the project as a progressive pre-development public-private partnership (“P3”) hides the project’s true monetary and environmental costs and prevents meaningful public engagement until after the DEIS and Final EIS are released. A preferred alternative should not be picked without understanding and analyzing these costs.

Problems with the NEPA Analysis

The DEIS fails to take the required hard look at the human health and environmental impacts of the proposed expansion. It repeatedly excuses cursory reviews by noting that many project details remain unknown. This is insufficient and contrary to the purpose of the National Environmental Policy Act (“NEPA”). By failing to appropriately study the available information, the DEIS prevents the public from understanding and commenting on the consequences of the proposed expansion. It will also prevent the U.S. Department of Transportation, Federal Highway Administration (“FHWA”) and the Maryland Department of Transportation, State Highway Administration (“MDOT SHA”) (together, “Agencies”) from reaching a decision on the proposed project that is based on a complete consideration of environmental impacts and that utilizes all practicable measures to avoid harms.

Segmentation

- The I-495 & I-270 Managed Lanes Study was segmented in a way that unreasonably constricts the scope of environmental evaluation. The DEIS therefore omits analysis of public transit options that would be viable when considered against the entire project.

Bottlenecks at the study corridor's termini are also not adequately addressed, including the ones at I-370 and at I-495 at the I-270 spur. Segmentation also prevents true analysis of cumulative impacts of the project, as required by NEPA, and it ignores consideration of the effects of induced development the project may cause throughout the region.

- There has been faulty sequencing in the project. Upper I-270 has been included in Phase 1 of the project but is not studied in the DEIS nor has it begun the formal NEPA process. The I-270 portion of the project has many challenges and costs which have not been appropriately considered, including whether it is even financially viable to undertake.
- The Agencies fail to explain their rationale for not conducting a Programmatic EIS analyzing the proposed expansion within the broader context of Maryland's Traffic Relief Plan. A Programmatic EIS should have been conducted to study the alternatives within the context of this region-wide plan which includes planned improvements to I-270 from I-370 to I-70 and to other corridors in the Baltimore Washington Region.

Project Purpose and Alternatives Considered

- Prior to the DEIS, the Agencies unreasonably defined the study's purpose and need so narrowly that they only considered alternatives which involved two to four managed highway lanes. The Agencies did not analyze reasonable public transit options, public transit combined with other improvement options, or transportation systems management and transportation demand management (TSM/TDM) options, based on their claim that those would not meet the narrow purpose and need. Nevertheless, the DEIS shows that stated goals for the study, the use of alternative funding approaches for financial viability and environmental responsibility, cannot be met by any of these managed lane expansion alternatives.
- It is essential that the new American Legion Bridge accommodate rail transport, as was done for the Woodrow Wilson Bridge. By not accommodating rail, the project fails to meet the stated purpose of enhancing existing and planned multimodal mobility and connectivity.
- The DEIS does not consider how COVID-19 will impact the financial viability of the proposed project. MDOT SHA intends to build the project as a public-private partnership ("P3"). Under this model, any reduction in anticipated toll revenue can derail funding potential. Tollway revenue in Maryland is down 40% and hundreds of millions of dollars, and tollway operators across the country have sought billions of dollars in taxpayer bailout money. Therefore, it is vital that MDOT SHA analyze COVID-19's long-term impact on toll revenue and the financial viability of the proposed project.
- The DEIS improperly fails to analyze the Intercounty Connector/Maryland 200 Diversion Alternative as put forward by the impacted counties, an alternative to widening the top side of the Beltway that would avoid expansion in sensitive areas and property relocations.

Water Impacts

- The DEIS does not analyze how increased stormwater runoff from the proposed expansion will impact local waterways. The Agencies claim that these impacts will be addressed through the permitting process that will occur during the design and construction phase, but these impacts must be considered during the NEPA review process. The DEIS also fails to analyze how the increase in polluted stormwater runoff will impact downstream waterways.
- The DEIS fails to sufficiently address how degradation to waterways and wetlands will be mitigated. The Agencies plan to rely on water quality trading credits, purchased from other MDOT SHA programs, to meet permitting requirements instead of reducing water pollution where the project is located. The DEIS fails to analyze how the purchase of water quality trading credits will impact local waterways and evidence shows that such trading programs may degrade local waterways. Importantly, onsite and localized mitigation must be considered when addressing impacts to waterways in parklands.
- The DEIS fails to demonstrate that there is no practicable alternative with less extensive impacts to wetlands and streams than the proposed expansion.
- The DEIS fails to analyze how the construction and footprint of the proposed expansion would increase flood risks by changing the hydraulic function and elevation of floodplains.
- The DEIS incorrectly defines the area that will be disturbed by the proposed expansion by too narrowly delineating the Limit of Disturbance (“LOD”) and fails to account for all impacts to streams and wetlands. This artificially limits the scope of impacts analyzed.
- The proposed expansion will further degrade local water quality and make it harder for Montgomery County, Prince George’s County, and Fairfax County to meet their requirements under the Chesapeake Bay TMDL. SHA must be held accountable for both Montgomery County and Prince George’s higher stormwater standards.
- The calculation method for the stormwater management is flawed. The DEIS claims that only 25% of existing highway surfaces will be reconstructed, allowing the Agencies’ to perform a low level of stormwater runoff treatment. However, because the proposed project will reconstruct all current lanes, a much higher level of treatment would be needed, which is costly and difficult given the dense development along the study corridor. Calculations must also include the existing stormwater runoff before the new lanes are built as well.

Hazardous Waste

- The DEIS does not adequately assess hazardous materials along the highway corridors, identifying hazardous waste sites without describing the specific hazardous substance or their site distribution. A discovery of additional hazardous materials after the EIS process may cause expensive delays in the project, with any required cleanup likely to be paid with taxpayer funds rather than by the private sector.

Air Emissions

- The DEIS fails to fully analyze the increased harmful air emissions the proposed expansion would cause. Instead, the DEIS seeks to minimize these harms by relying on unrelated increases in fuel efficiency. Just as problematic, the DEIS estimates these fuel efficiency increases based on fuel efficiency standards that another Agency within the Department of Transportation revoked four months ago.
- The proposed expansion will result in greater PM_{2.5}, CO, ozone, NO₂, and greenhouse gas emissions when compared to the no build alternative or the ignored public transit-based alternatives.
 - It is well-established that PM_{2.5} causes cardiovascular, nervous system, cancer, and mortality harms including at levels below the National Ambient Air Quality Standards. The DEIS ignores these harms and completely fails to take a hard look at this impact. This is all the more insufficient because of the recent studies establishing a link between COVID-19 mortality and higher PM_{2.5} concentrations.
 - The proposed expansion will further exacerbate climate change and hurt Maryland's ability to reduce its greenhouse gas emissions by 40% by 2030 under Maryland's Greenhouse Gas Reduction Act.
- The DEIS fails to analyze harmful air emissions from construction activities, including increased particulate matter, CO, and greenhouse gas emissions. The Agencies' partial attempt to justify this failure by claiming that construction will be segmented, and each construction segment will take less than five years, does not meet the Agencies' obligations under NEPA. The Agencies' claim that greenhouse gas impacts from construction will be analyzed in the final EIS is insufficient; it prevents meaningful public comment and informed decision-making.

Traffic Modeling

- The DEIS does not use the most up-to-date traffic data to study the proposed alternatives. The Agencies base their traffic forecasting models on Metropolitan Washington Council of Governments ("MWCOG") Travel Model version 2.3.70, released in November 2017. However, MWCOG released the updated version 2.3.75 on October 17, 2018.
- The DEIS does not appropriately analyze the effect that increased capacity will have on long-term traffic demand on the Beltway and I-270 and connected arterial roads. The Travel Model assumes that highway construction has no effect on land use, and thus underestimates the new trips that the project will generate. Additionally, while the DEIS admits that the project has the potential to induce increased traffic along arterial roads leading to the Beltway and I-270, there is no analysis of the strain this potential increase may place on those roads.
- The DEIS fails to consider the impact autonomous vehicles will have on future traffic along the study area despite forecasting traffic to 2040 when autonomous vehicles will be far more prevalent.

- The traffic modeling is incomplete because it fails to include four toll lane exits to Connecticut Avenue, New Hampshire Avenue, US 1, and Pennsylvania Avenue/MD 4.
- While the DEIS uses traffic data from 2017, it fails to mention that MWCOG in the same year showed travel demand management significantly outperforming a highway express travel network in reducing congestion.
- The DEIS ignores that its own estimates (Table 5-6 in DEIS Appendix C) show the managed lanes would cause increased travel times on I-270's general lanes during the PM peak travel time.
- The DEIS does not consider how COVID-19 will impact the traffic growth patterns on the Beltway and I-270. The study is premised on congestion and traffic patterns that pre-date March 2020. In traffic forecasting models used in the DEIS, the Agencies presumed that these traffic patterns would lead to increased congestion through 2040, the planning horizon year. However, COVID-19 has changed how people across the country work and travel, and many have transitioned to permanent telework. These changes warrant the inclusion of COVID-19 impacts in traffic forecasting models used in the DEIS and the opportunity for another review by the public.

Environmental Justice

- The Agencies must consider whether the project's adverse effects are disproportionately borne by communities where most of the residents are minority or low-income, or Environmental Justice ("EJ") communities. This requires a DEIS to compare the effects on EJ communities with non-EJ communities. Here, however, the DEIS includes no such comparison. Instead, the DEIS simply describes the 36 EJ communities in the study area and the potential impacts to those communities. This precludes the Agencies from considering measures to mitigate any potential disproportionate effects to the 36 EJ communities in the DEIS study area. Additionally, the DEIS makes only conclusory statements claiming that the managed lanes will benefit EJ communities, despite the expected high toll prices and environmental impacts to their communities.

Problems with the Section 4(f) and National Historic Preservation Act Analyses

- Section 4(f) of the Department of Transportation Act mandates that the Agencies may only use parks, recreation areas, or wildlife refuges if no feasible and prudent avoidance alternative exists. In its 4(f) section, the DEIS fails to consider feasible and prudent avoidance alternatives by only considering single-mode road alternatives.
- The DEIS fails to analyze the extent of impacts to parkland. The DEIS includes only rudimentary information and does not consider the project's proximity impacts to parkland. The lack of information frustrates the duty of state and local agencies to protect parkland under their jurisdiction, including lands in the Sligo Creek and Rock Creek watersheds.
- Section 106 of the National Historic Preservation Act ("NHPA") requires the Agencies to take into account impacts to historic sites or cultural properties. First, the DEIS

insufficiently identifies relevant historic and cultural resources. Second, the DEIS treats parkland as individual units instead of a cohesive regional system and therefore downplays the parkland's cultural significance and historical value. As a result, the Agencies cannot properly negotiate and plan avoidance, minimization, and mitigation as required by NHPA.

Additional Problems with the Process

- MDOT SHA has refused to provide important information to the public regarding the proposed project and information that formed the basis of the DEIS. It has also hidden important historical documents from public review, relevant once-published documents from state websites, and denied access through high charges and equivocation in the PIA process. In response to Maryland Public Information Act requests, MDOT SHA has offered changing and unlawful reasons for denials, including asking the public interest organizations requesting this information to pay \$300,000 to conduct the related document search.

Two major purposes of the environmental review process are better informed decisions and citizen involvement. The proposed I-495 and I-270 DEIS fails in both respects and it will lead to uninformed decision making based on hindered public participation.