

## Comments on Scope of the Environmental Impact Statement for I-495 & I-270 Managed Lanes Project

There are several shortcomings that we find with the proposed scope of the Environmental Impact Statement (EIS) for the I-495 & I-270 Managed Lanes project. These shortcomings are reflected in the proposed purpose and need, analysis of alternatives, lead agency, and segmentation of the project. We are also very concerned about the accelerated plan for this EIS.

### Purpose and Need

Every EIS is required to have a Statement of Purpose and Need for the project. The Notice of Intent clearly limits the study to roadways for easing congestion for motorists. A Statement of Purpose and Need for the project that limits the project too narrowly violates the intent and purpose of the National Environmental Policy Act (NEPA), especially Section 102 requiring the analysis of alternatives. We strongly object to a Statement of Purpose and Need that is limited to only roadways and does not include other reasonable transportation modal alternatives, such as mass transit.

We would like to point out the scoping for this EIS already appears to be biased. The bias can be found in the statement in the Notice of Intent published at 83 FR 11812 of March 16, 2018 as follows: “Motorists on I-495 and I-270 do not have an option for efficient travel during extensive periods of congestion. Additional roadway management options are needed to improve travel choices.” This statement is not true; on the contrary, motorists *do* have the option to use mass transit, including Metrorail, Metrobus, and Maryland Area Rail Commuter (MARC).

### Analysis of Alternatives

We object to the clear resolve of the Notice of Intent to exclude reasonable transportation modal alternatives other than roadways from the scope of the EIS. We urge that mass transit is one such reasonable alternative, and 40 CFR 1502.14 requires the inclusion of reasonable alternatives, such as mass transit, not within the jurisdiction of the lead agency. Furthermore, Federal Highway Administration (FHWA) Technical Advisory T 6640.8A, “Guidance for Preparing and Processing Environmental and Section 4(f) Documents” in section V, subsection E, paragraph 3 specifically lists mass transit as a reasonable alternative: “Mass Transit: This alternative includes those reasonable and feasible transit options (bus systems, rail, etc.) even though they may not be within the existing FHWA funding authority. It should be considered on *all* proposed major highway projects in urbanized areas over 200,000 population.” The Washington, DC metropolitan area, in which the I-270 lies, is well over 200,000 population. MDOT and FHWA acknowledged the necessity of seriously considering mass transit as an alternative in the previous “I-270/US 15 Multi-Modal Corridor Study;” there is no reason why it should be omitted from the scope of this current project EIS.

## **Lead Agencies**

We object to the failure to include the Maryland Transit Administration (MTA) as a co-lead agency for the preparation of the Environmental Impact Statement (EIS) for this project. MTA was a co-lead agency in the preparation of a previous EIS for easing congestion on I-270, “I-270/US 15 Multi-Modal Corridor Study.” The MTA must be included as a co-lead agency in order to analyze mass transit alternatives.

## **Segmentation**

We object to the separate and narrow focus on “managed lanes,” as the subject of this project EIS; we contend that such separate and narrow focus violates the spirit and letter of NEPA. By breaking off this narrowly-focused project from the overall consideration of the I-270 and I-495 corridors, the environmental consequences of this project are mitigated in order to neglect the “big picture.” Governor Hogan’s announcement of this project made clear that the state considers his proposed new lanes on I-270, the Beltway, and Baltimore-Washington Parkway to be a single integrated project whose purpose is to improve “traffic in the region” [<http://www.roads.maryland.gov/OC/Traffic-Relief-Plan-Press-Release.pdf>]. It must be compared to transit alternatives with a similar regional scope, including the Maryland Transit Opportunities Coalition’s rail transit plan. [<http://www.transitformaryland.org/>]

More specifically, the scope of the Notice of Intent excludes the portion of I-270 between Frederick and Shady Grove, which the state apparently intends to treat in a separate NEPA document. A large portion of the travelers on I-270 from Frederick commute to/from downtown Washington, DC, Rockville, Bethesda, or Silver Spring. MARC from Frederick and Metrorail from Shady Grove serve these destinations, and both go all the way to/from downtown Washington, DC. Adding managed lanes to I-270 facilitates travel to only Montgomery County – not Washington, DC. An EIS scope that includes MARC and Metrorail would look at the environmental effects of mitigating congestion for travel to downtown Washington, DC – giving the larger and more complete picture. The myopic action taken to limit the scope of this project clearly constitutes segmentation, an evasive action that has been ruled illegal by the courts because it violates the spirit and letter of NEPA.

Furthermore, major bidders such as [Macquarie Capital](#) (p. 8 of its Response to Request for Information), [Meridiam](#) (p. 6 of its Response to Request for Information) and [Transurban](#) (pp. 6-7 of its Response to Request for Information ) have told the lead agency, Maryland State Highway Administration (SHA), that they would bid all of I-270 as a single contract; therefore, these bidders also oppose segmentation of the project into two parts.

## **Accelerated Plan for the Project EIS**

We also object to the accelerated plan for this EIS as described in slides 53 – 57 of the presentation, “Traffic Relief Plan” [<http://www.roads.maryland.gov/OC/MDOT-TRP-Industry-Forum.pdf>] delivered by Maryland Department of Transportation at the Industry Forum on

December 13, 2017. The presentation made it clear that the EIS process would be accelerated for this project; in so doing, it would sacrifice rigor and skirt thorough evaluations (or re-evaluations) in favor of expediency – a very dangerous road to tread.

We respectfully request that the lead agency, SHA, address all our comments specified above concerning the scope of this project EIS as reflected in the proposed purpose and need, analysis of alternatives, lead agency, and segmentation of the project.

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