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**Re: Coalition for Smarter Growth's Comments on the I-495 and I-270 Managed Lanes Study Draft Environmental Impact Statement/Draft Section 4(f) Evaluation and Joint Federal/State Application (JPA)**

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The Coalition for Smarter Growth submits the following comments in response to the Notice of Availability of the I-495 & I-270 Managed Lanes Study Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation. 85 Fed. Reg. 41,583. We have also signed onto the comments submitted by the Sierra Club and we endorse the points made by the Maryland Transit Opportunities Coalition.

We oppose the addition of managed lanes to expand I-495 & I-270 (henceforth referred to as “the Project”) and support the No Build alternative pending development of a more sustainable and effective alternative, with fewer impacts. The DEIS and Section 4(f) evaluation are insufficient and do not fully consider the impacts of the proposed expansion, a massive alternation to our landscape that comes at an extremely high cost to neighborhoods, community health, the natural environment, and taxpayers. There was no meaningful consideration of viable alternatives to constructing new toll lanes. We request that the U.S. Department of Transportation Federal Highway Administration and the Maryland Department of Transportation State Highway Administration (together, henceforth referred to as “the Agencies”) stop and restart this process to fully address all gaps in the current DEIS and fulfill the requirements of the National Environmental Policy Act (NEPA) and Section 4(f).

## **1. The purpose and need is narrow, biased, and does not screen alternatives accurately**

The stated purpose and need is unreasonably narrow and restricts the range of alternatives considered. There is no meaningful consideration of other viable alternatives, including a comprehensive transit, demand management, and land use alternative.

The stated purpose and needs statement presuppose a roadway expansion. First with “accommodate existing traffic and long-term traffic growth,” which assumes that traffic outcomes are inevitable and not influenced by malleable land uses, transit options, and demand management policies. As will be discussed below, the Metropolitan Washington Council of Governments (COG) model used by the Agencies in the DEIS over-predicts future traffic. Additionally, it is not in the public interest to accommodate growth in vehicle miles traveled (VMT), given its association with higher greenhouse gas emissions. Instead, the goal should be to decrease average trip lengths, total and per capita VMT, and to increase non-auto mode share. The conclusions-oriented reasoning of the purpose and need statement is furthered through the stated goal to “provide additional roadway travel choices.” This limits travel choices to additional roadways, thus ensuring that the alternatives retained for detailed study (ARDS) would include roadway expansions.

The criteria used to screen the alternatives were similarly biased toward a managed lanes option and inconsistently screened out alternatives. Namely, the criterion of financial viability. The transit alternatives were not retained for detailed study due to their estimated negative cash flow, but the same was also found to be true of several of the ARDS. Every single ARDS will run a deficit between \$482 million to \$1.01 billion. Instead of removing these alternatives, the analysis was redone in such a way that was supportive of their inclusion, using conservative cost and cost-overrun estimates as well as omitting the high costs of utility relocation. Alternatives that would result in less environmental degradation were arbitrarily rejected on the basis that they require a public subsidy when there is still not an accurate understanding of how much the managed lane options would cost, and when they too require a public subsidy in direct funding and discounted federal loans, along with potentially much higher community, environmental, and public utility relocation costs.

Finally, the limited study area means that non-highway land use and transportation alternatives were discounted, such as a combination of the MARC Brunswick line, Montgomery County Bus Rapid Transit plan, the Purple Line, transit-oriented development at Metro and Purple Line stations, and demand management policies. The areas served by I-495 and I-270 extend much farther than the 1.5-mile limit imposed on the study area. Transportation solutions for I-495 and I-270, as well as an integrated land use solution that reduces demand, would involve areas beyond the limited corridor identified in the study.

Thus, because of the narrow purpose and need favoring similar alternatives for adding managed toll lanes, the resulting ARDSs essentially have the same environmental impact, aside from the No Build option. Alternatives that would potentially have lessened environmental and community impacts were not studied in detail for the DEIS analysis.

## **2. Traffic modeling assumptions are deeply flawed**

We incorporate by reference the comprehensive technical analysis completed by Norman Marshall of Smart Mobility, Inc. on behalf of Sierra Club, Coalition for Smarter Growth, and other partners which is included in the joint comments submitted by Sierra Club.<sup>1</sup> Accurate traffic modeling is critical because the implications of the traffic analysis inform the consideration of alternatives and the rest of the analysis of the Project's environmental and community impacts.

The model over-predicts future traffic: The DEIS uses a flawed model from the Metropolitan Washington Council of Governments (COG) that: 1) does not constrain traffic flow to capacity, 2) does not properly feed congested travel times back to non-work trip destinations, 3) assumes no increased traffic from road expansion, 4) fails to accurately forecast bottlenecks, 5) does not calculate net congestion tradeoffs, and 6) does not accurately model peak period conditions.

The DEIS falsely claims that if the Project is not constructed, corridor traffic volumes and delays will grow exponentially. Traffic cannot grow significantly unless highways are widened to accommodate such growth by changing the road's hourly capacity. Without expansion, traffic growth is constrained. Widening will shift more traffic into peak hours and increase congestion on connecting roads. Due to the increased number of trips during peak hours, widening will not significantly reduce congestion in general purpose lanes. Widening will instead create bottlenecks and increase peak hour trips on connecting roads.

Toll lanes need congested general lanes: The express toll and high occupancy toll lane models rely on general purpose lanes being congested enough for a certain number of drivers to be willing to pay tolls. Extreme congestion is needed to justify the high tolls required to cover the high construction costs of the additional lanes and make a profit for the private concessionaire. Those drivers who are willing and able to pay will see improved trip times, but those numbers are not enough to result in an efficient use of infrastructure. In Virginia, similar managed lanes tend to carry about 1/3 of daily traffic, despite being 1/3 of the highway capacity.

Induced demand is not accounted for: Studies and real-life experience show that induced demand is real. Highway expansions only relieve congestion for a short period of time. In the near term, people shift back into the peak hour, leave transit or carpools to drive solo again, or simply change their route. In the medium to long-term, highway expansions fuel sprawling land uses, leading to an overall increase in vehicle trips and VMT, adding even more new users. This is why the DC urbanized area's travel delay grew 144 percent between 1993 and 2017, while population growth and freeway lane-miles growth were roughly on-par.<sup>2</sup> The fact that increased vehicles, vehicle trips, and VMT from induced demand were not taken into consideration means that the associated air pollution, water pollution, and greenhouse gas emissions were not adequately considered, analyzed, and detailed.

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<sup>1</sup> Norman Marshall (October 2020), *Review of Maryland I-495 & I-270 Managed Lanes Project Draft Environmental Impact Statement and Draft Section 4(f) Evaluation*. Available at:

<https://www.sierraclub.org/sites/www.sierraclub.org/files/sce/maryland-chapter/MD%20Managed%20Lanes%20DEIS%20Traffic%20Review%2010-29-2020.pdf>

<sup>2</sup> Transportation for America (2020), *The Congestion Con*. Available from: <https://t4america.org/wp-content/uploads/2020/03/Congestion-Report-2020-FINAL.pdf>

Commuting patterns are changing: Due to unforeseen circumstances, there is a new need to take increased telecommuting into consideration given recent changes to work habits and travel patterns resulting from the COVID-19 pandemic. A recent study from the University of Maryland’s Transportation Institute showed that a 5 to 15 percent reduction in vehicles on the road during peak hours would essentially eliminate congestion. This future is now more in reach and often an everyday reality as more people adjust to permanently teleworking full-time or more often — a shift that is expected to outlast the COVID-19 pandemic.

### **3. Transit, land use, and comprehensive solutions were not taken into consideration**

The 20 Project alternatives and variations were considered as separate and isolated alternatives by mode of transportation, thus the Agencies did not consider the full spectrum of possible roadways alterations, transit improvements, and transportation systems management/transportation demand management combinations. Instead of considering a comprehensive transit, land use, and system/demand management solution, the analysis in the DEIS appears designed to put up segmented alternatives destined to fail, in order to support a preconceived conclusion to construct new toll lanes.

The transit options that are included in the DEIS are not fully analyzed. For example, the DEIS does not provide an accurate assessment of existing and future transit ridership, meaning that the analysis of modal shift is incomplete. Further, it is disingenuous to say that the Purple Line light rail is the transit portion of the Project. The DEIS does not analyze this as an alternative and instead relies, for the Purple Line and transit alternatives that were originally included, on past studies.

There is no discussion or analysis of how to bring transit across the Woodrow Wilson Bridge, which was designed and built to accommodate rail as part of a significant investment from the State of Maryland. Similarly, there is no indication or commitment by the state to make the same rail engineering accommodations on the rebuilt American Legion Bridge. Given the 50-year term proposed for the public-private partnership (P3), these accommodations for future rail and transit should be a part of planning for the comprehensive transit system.

The DEIS also ignores the interconnectedness of land use and transportation. The prudent and feasible alternative that will result in shorter travel times, fewer VMT, and better use of existing infrastructure is a comprehensive land use, transit, and system/demand management plan. This was supported by a 2017 long-range analysis prepared for the National Capital Region Transportation Planning Board, showing that travel demand management scenario was the best way to cut daily vehicle hours of delay by 24 percent, followed by the regional land use balance scenario, providing reductions of 18 percent.<sup>3</sup> The regional balanced land use scenario would steer more growth in jobs and housing to underused rail stations and city centers with high-capacity transit.<sup>4</sup> These two scenarios were shown to be equally beneficial and superior to other

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<sup>3</sup> National Capital Region Transportation Planning Board (2017), *Long-Range Plan Task Force: Draft Analysis Results*. Available from:

<https://www.mwcog.org/file.aspx?&A=p4JrCe45zvbv1oUd3kATAKPZvxFjPC2LqsK%2fcA4dpYQw%3d>

<sup>4</sup> Metropolitan Washington Council of Governments (December 20, 2017), *News Release: Transportation Planning Board approves five initiatives to improve region’s transportation system*. Available from:

scenarios, including the express toll lanes alternative (which included both funded transit and HOV running free), in lowering VMT per capita. In addition, the regional land use balance was the best option for decreasing average car commute times.

Additional studies support the idea that getting more people to live and work near Maryland's 26 Metro stations and future Purple Line stations would do more to reduce long-distance commuting and traffic than further widening highways. This includes the Washington Metropolitan Area Transit Authority's (WMATA) 2014 Connect Greater Washington Long Range Transit Plan, which shows that buildout of development at Metro stations, particularly those on the east side of the region would provide significant benefits to the highway network. There is also significant research showing success in reducing congestion by pricing existing general-purpose travel lanes and allowing high-occupancy vehicles to travel for free in dedicated lanes.

#### **4. Environmental and community impacts are detrimental and the analysis is inadequate**

This section details the harmful environmental and community impacts that are outlined in the DEIS, which fail to constitute a "hard look." Feasible and prudent alternatives to avoid direct, indirect, and cumulative harm have not been considered. Among other things, these negative impacts have not been fully analyzed due to an unrealistic Limited of Disturbance (LOD) and illegal segmentation.

First, the LOD is unrealistic to depend on for measuring impacts to parkland, waterways, and historic properties given that it is a preliminary planning tool and is subject to change given the final design of the private concessionaire. This cannot be a legally adequate basis to evaluate the Project's environmental impact.

Second, the environmental effects of widening I-270 are being studied in two separate EISs, constituting illegal segmentation, and do not take into account the combined environmental impacts of the Project's two phases. This segmentation also has implications for which ARDS were selected (for example, eliminating MARC expansion alternatives) and brings into question the conclusions of the traffic modeling, given that the full extent of the Project area has not been included in this DEIS's study area and thus the impacts were not analyzed comprehensively. Given the full, regional I-495 & I-270 P3 program proposal at hand, the Agencies should have performed a Programmatic EIS.

Water quality & stormwater management: The DEIS fails to calculate the amount of stormwater generated or how it would impact water quality. Instead of modeling the impacts, the DEIS uses estimates and places a heavy reliance on nutrient trading credits to meet stormwater treatment requirements. Over 550 acres of new impervious surfaces are highly likely to increase runoff, pollution, and flooding, especially if mitigation efforts are primarily done offsite and outside impacted watersheds. Thus, it is not clear that the Project will not violate water quality standards

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<https://www.mwcog.org/newsroom/2017/12/20/transportation-planning-board-approves-five-initiatives-to-improve-regions-transportation-system/>

and the public's interest in high quality waterways. Thus, the Clean Water Act 404 permit should be denied.

Greenhouse gases & air quality: The Project would increase greenhouse gas emissions compared to a No Build alternative, potentially violating the Maryland Greenhouse Gas Emissions Reduction Act of 2016. The emissions are also too conservatively estimated, ignoring induced demand and the increase in vehicle trips and VMT. Higher greenhouse gas emissions will contribute to global warming with more days of extreme heat, unhealthy air quality, and heavier precipitation events with more flooding. The DEIS also does not take into account greenhouse gas emissions from the construction of the Project, nor does it adequately address the human health impacts of other pollutants including particulate matter (PM2.5) which has a particularly harmful effect on the lungs of our children. Homes, schools, hospitals, local businesses, and parks surround I-495 and I-270, and residents' health will be at-risk from further highway expansion spurring more particulate matter, carbon monoxide, ozone, nitrous oxides and volatile organic compounds in their communities.

Parks & natural resources: Dozens of parks will be negatively impacted, losing greenspace, trails, and the forest canopy critical for reducing the CO2 that contributes to global warming. Further, hundreds of acres of streams, wetlands, and land designated as sensitive habitat for wildlife will be negatively impacted. MDOT is required to minimize impacts to parks and determine how to make the park system whole again, which has not been done in this DEIS.

Homes and other properties: Up to 34 homes will be destroyed, with 1,500 more properties negatively impacted through partial takings and increased noise, air, and water pollution. Low-income and minority communities will bear the brunt of these negative impacts for generations to come, further reducing the value of their properties and exacerbating the east-west socioeconomic divide in the DC region.

## **5. Taxpayer dollars will be used ineffectually and irresponsibly**

The full financial cost and risk is not adequately presented in this DEIS. Utility relocation costs are left out, including the estimate from the Washington Suburban Sanitary Commission (WSSC) that water and sewer relocations necessitated by the Project could cost \$2 billion. This means that even if a rate payer in Maryland's Washington suburbs never uses the managed toll lanes, they would still be paying for the Project through greatly increased water and sewer charges, up to a 277 percent increase over the next 40 years.

We are concerned by the likelihood that the Project's developers will require an assurance of minimum revenues from the state, requiring payouts if the Project is at some point cancelled, has cost overruns, or competition. Because the contract is not complete at this time, the financial risks cannot be fully known. Given restrained state resources, any subsidy for this Project would result in less investment in transit and other sustainable modes of transportation that will decrease Maryland's transportation greenhouse gas emissions. During an environmental crisis, this costly Project is not the best use of taxpayers' financial resources.

## **6. Equity analyses are incomplete**

The environmental justice (EJ) analysis uses a flawed methodology by using Census data because it ignores small pockets of minority and low-income communities. DEIS declines to address EJ impacts and does not compare impacts to the general population to determine whether there is a disproportionate effect, as is legally required.

Among the potential impacts that should be considered are the cost of using the toll lanes compared to income levels by race and the potential that the lanes will lock in the regional jobs/housing imbalance. Today, most jobs and most well-paying jobs are located in the I-270 and Virginia Dulles Toll Road corridors, not in Prince George's. The expansion of I-270 to 12 lanes in the early 90s was demonstrated to have shifted development to the I-270 corridor and away from DC and Prince George's.<sup>5</sup> A comprehensive land use, transit, and demand management alternative that put transit-oriented development in the forefront and includes build-out at the 15 Prince George's Metro stations, Purple Line stations, and east side Red Line stations would more effectively address the region's transportation needs, while also addressing our regional racial and economic inequities. Therefore, a full and comparative racial equity analysis needs to be included.

## **Conclusion**

Even with the inadequate analysis provided, it is shown that the Project cannot be justified due to its associated environmental, community, and public health impacts. The Agencies should select the No Build alternative and then restart the process with the full proper analyses, including a comprehensive land use, transit, and system/demand management solution that will reduce travel times, VMT, and environmental impacts.

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<sup>5</sup> Sipress, Alan, *MD's Lesson: Widen the Roads and the Drivers Will Come*, Washington Post, p. B-1, Jan 4, 1999. This article was followed by a Metropolitan Washington Council of Governments Transportation Planning Board analysis that confirmed the conclusion of the article.