



U.S. Army Corps of Engineers
Baltimore District



Maryland
Department of
the Environment



U.S. Department of Transportation
**Federal Highway
Administration**



**STATE HIGHWAY
ADMINISTRATION**

Public Notice

In Reply to COE Application Number NAB-2018-02152 (MDOT SHA/I-495 I-270 Managed Lane Study) and MDE, Nontidal Wetlands and Waterways Tracking Numbers 20-NT-0114 / 202060649 / AI 168251

PN- 20-42

Comment Period: 7/10/2020 to 10/8/2020

THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES OF THE PROPOSED ACTIVITY, SCHEDULED PUBLIC HEARINGS, AND TO SOLICIT COMMENTS. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT PERMITS WILL BE ISSUED AT THIS TIME.

The U.S. Army Corps of Engineers, Baltimore District (Corps), Federal Highways Administration (FHWA), the Maryland Department of the Environment (MDE), and the Maryland Department of Transportation State Highway Administration (MDOT SHA) joint public hearings 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 Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland (JPA) proposed for the project. As part of the public comment period, the purpose of the hearing(s) is for the Corps and MDE to receive oral or written comments that will enable them to evaluate the impacts of the proposed project on the public interest. All interested parties, including representatives of Federal, State, and local governments and private individuals and organizations, are invited to be present or to be represented. Each will be given an opportunity to express their views regarding the proposed project.

VIRTUAL ONLINE PUBLIC HEARINGS:

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| Tuesday, August 18, 2020 (FHWA, MDOT SHA, MDE) | Tuesday, August 25, 2020 (FHWA, MDOT SHA, MDE, Corps) |
| Thursday, August 20, 2020 (FHWA, MDOT SHA, MDE) | Thursday, September 3, 2020 (FHWA, MDOT SHA, MDE) |

Due to the current COVID-19 health crisis, four virtual public hearings are being held from 9 AM to 8 PM on the dates above. Note, the official Corps hearing date is August 25th; however, comments received during all the public hearings will be part of the administrative record and considered equally during the Corps permit evaluation. Interested parties may participate in the virtual online hearings in three ways: providing public testimony, watching online, or calling in to listen or leave testimony via voicemail. Three public testimony sessions, Morning from 9 AM to 12 PM, Afternoon from 1 PM to 4 PM, and Evening from 5 PM to 8 PM will be available during each hearing. Interested parties will each have three minutes to provide public testimony by registering online at 495-270-p3.com/DEIS after which email instructions will be provided. The virtual hearings may be watched online at 495-270-p3.com/DEIS or may be listened to by calling 855-432-1483 (press * to hear options). This phone number also offers the option to provide testimony by voicemail from 9 AM to 8 PM on each hearing day.

IN-PERSON PUBLIC HEARING DATES AND LOCATIONS:

| | | | |
|--|---|---|---|
| <p>Tuesday, September 1, 2020 Homewood Suites by Hilton 9103 Basil Court Largo, MD 20774 Location Phone 301-322-2220 Time: 12 PM to 9 PM</p> | <p>Joint Agencies in Attendance: FHWA MDOT SHA MDE</p> | <p>Thursday, September 10, 2020 Hilton Executive Meeting Center 1750 Rockville Pike Rockville, MD 20852 Location Phone 301-468-1100 Time: 12 PM to 9 PM</p> | <p>Joint Agencies in Attendance: FHWA MDOT SHA MDE</p> |
|--|---|---|---|

Due to the current COVID-19 health crisis, public and one-on-one testimony at in-person public hearings will be by appointment only and hearing room attendance will be limited to participants offering testimony. Register by calling 833-858-5960. Participants will be placed in time slots and may listen to public testimony offered during their time slot. Interested parties will each have three minutes to provide testimony. Attendees will receive an informational brochure (also available on the program website) and limited staff will be available to answer questions. One-on-one testimony may be provided to a court reporter from 12 to 9 PM during the in-person hearings. **Please be advised that social distancing protocols will be strictly enforced, including face coverings, hand sanitizing stations, and limited capacity in hearing rooms.**

The hearings will be recorded and transcribed; hearing transcripts will be available on the Program website. Comments can also be provided in writing at the public hearings, via email or U.S. mail.

Public hearing documents, including the JPA documents, project plans, and the Managed Lanes Study (MLS) Draft Environmental Impact Statement (DEIS) can be downloaded from the Program website: 495-270-p3.com/DEIS. The JPA documents will include the application; a project location map; a map of the proposed mitigation sites; alignment cross sections by alternative; the wetlands delineation memorandum; the Avoidance, Minimization, and Impacts Report; the Draft Compensatory Mitigation Report; Impact Plates; Impact Tables; the Tier II list; and the DEIS. Hard copies of the DEIS and JPA with supporting documents will be available for review during the comment period at the document availability locations listed below beginning July 10, 2020. Hearing materials, including a presentation, informational displays, and brochure can be viewed starting July 31, 2020 at the document availability locations or on the Program website.

MARYLAND STATE OFFICES: Viewing hours: Mon. to Fri. 11 AM to 7 PM, Sat. and Sun. 12 to 5 PM

Montgomery County:

MDOT SHA Gaithersburg Shop, 502 Quince Orchard Road, Gaithersburg, MD 20878
 MDTA MD 200 West Operations, 16902 Crabbs Branch Way, Rockville, MD 20855
 MDOT SHA Fairland Shop, 12020 Plum Orchard Road, Silver Spring, MD 20904
 MDOT SHA Silver Spring Study Office, 8537 Georgia Avenue, Silver Spring, MD 20910

Prince George's County:

MDOT SHA District 3 Office, 9300 Kenilworth Avenue, Greenbelt, MD 20770

VIRGINIA STATE OFFICE: Viewing hours: Mon. to Fri. 9 AM to 4 PM

Fairfax County:

VDOT Northern Virginia District Office, 4975 Alliance Drive, Fairfax, VA 22030

MARYLAND LIBRARIES: Hard copies will be available in trailers in the library parking lots. Viewing hours: Tues. and Thurs. 11 AM to 7 PM, and Sun. 12 to 5 PM. Once libraries are open to the public, the hard copies will be available for review in the libraries during normal branch hours.

Montgomery County:

Chevy Chase Library, 8005 Connecticut Ave, Chevy Chase, MD, 20815
 Davis (North Bethesda) Library, 6400 Democracy Blvd, Bethesda, MD, 20817
 Kensington Park Library, 4201 Knowles Ave, Kensington, MD, 20895
 Potomac Library, 10101 Glenolden Drive, Potomac, MD 20854

Prince George's County:

Glenarden Branch Library, 8724 Glenarden Pkwy, Glenarden, MD, 20706
 Largo-Kettering Branch Library, 9601 Capital Ln, Largo, MD, 20774
 New Carrollton Branch Library, 7414 Riverdale Rd, New Carrollton, MD, 20784
 Spaulding Branch Library, 5811 Old Silver Hill Rd, District Heights, MD, 20747

WASHINGTON, DC LIBRARY: Viewing hours include Monday through Friday from 11 AM to 2 PM and 3 to 7 PM. Should library hours change, the document will be available during normal branch hours.

Washington, DC:

Shepherd Park Neighborhood Library, 7420 Georgia Ave. NW, Washington, D.C. 20012

US POST OFFICES (PO): Viewing hours: Mon. to Fri. 9 AM to 5 PM, Sat. 9 AM to Varies (see below)

Montgomery County:

West Lake PO (Sat. closes at 1 PM), 10421 Motor City Drive, Bethesda, MD 20817

Rockville PO (Sat. closes at 4 PM), 500 N Washington Street, Rockville, MD 20850

Prince George's County:

Kenilworth PO (Sat. 12 PM) 6270 Kenilworth Avenue, Riverdale, MD 20737

Hampton Park PO (Sat. closes at 4 PM), 9201 Edgeworth Drive, Capitol Heights, MD 20790

Largo PO (Sat. closes at 3 PM), 9801 Apollo Drive, Upper Marlboro, MD 20774

Temple Hills PO (Sat. closes at 2:30 PM), 4806 Saint Barnabas Road, Temple Hills, MD 20748

PERMIT INFORMATION: The Corps and MDE have received and are evaluating the JPA as described below for Department of the Army authorization pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403); and State authorization pursuant to Title 5, Subtitle 5 (Waterway Construction) and Title 5, Subtitle 9 (Nontidal Wetlands) of the Environment Article, Annotated Code of Maryland.

APPLICANT: Maryland Department of Transportation
State Highway Administration
Attn: Ms. Lisa B. Choplin, DBIA
707 North Calvert Street
Mail Stop P-601
Baltimore, MD 21202

LEAD FEDERAL AGENCY: The Federal Highway Administration, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed project is located in the Middle-Potomac-Anacostia-Occoquan (02070010), Middle Potomac-Catoctin (02070008), and Patuxent (02060006) HUC-8 watersheds in Prince George's and Montgomery counties, Maryland and Fairfax County, Virginia.

I-495 & I-270 MANAGED LANES NEPA STUDY PROJECT PURPOSE: The purpose of the I-495 & I-270 Managed Lanes NEPA Study is to develop a travel demand management solution(s) that addresses congestion, improves trip reliability on I-495 and I-270 within the project limits and enhances existing and planned multimodal mobility. The needs for the Study are:

- Accommodate existing traffic and long-term traffic growth;
- Enhance trip reliability;
- Provide additional roadway travel choices;
- Accommodate homeland security; and
- Movement of goods and services.

Two additional goals for the Study were identified: the use of alternative funding approaches for financial viability and environmental responsibility.

PROJECT DESCRIPTION: The project limits include: I-495 from south of the George Washington Memorial Parkway in Virginia, including improvements to the American Legion Bridge over the Potomac River, to west of MD 5 in Maryland and along I-270 from I-495 to north of I-370, including the east and west I-270 spurs. There

are six Build Alternatives under consideration for improvements within these limits. They are Alternatives 8, 9, 9M, 10, 13B, and 13C. Please see the table below for a summary of aquatic resource impacts by Build Alternative. Due to the preliminary nature of some of the JPA information, a second opportunity for public comment via a separate MDE public notice is anticipated if there are significant changes to the proposed nature, location or amount of proposed impacts. Any public comments received from a second public notice will be part of the administrative record and considered by both the Corps and MDE in their permit evaluation and decision.

On I-495, all Build Alternatives would consist of adding two High-Occupancy Vehicle Toll (HOT) or Express Toll Lane (ETL) managed lanes (MLs) in each direction, except for 9M which would only add one additional ML in each direction between the I-270 West Spur and the I-95 interchange. On I-270, Build Alternatives 8, 9, and 9M would have the same roadway footprint, but Build Alternative 8 would include one new ETL and one existing High-Occupancy Vehicle (HOV) lane in each direction, while Build Alternatives 9 and 9M would convert the HOV lane to a HOT lane and add a HOT lane in each direction. Build Alternative 10 would maintain the one existing HOV lane and add two ETLs in each direction. On I-270, Build Alternative 13B would convert the existing HOV lane in both directions to two reversible HOT lanes in the middle of the highway, separated from the general-purpose lanes by concrete barriers. Build Alternative 13C would be similar to 13B with two barrier-separated, reversible ETLs, except the existing HOV lane would be retained in both directions, which would slightly widen the proposed roadway footprint. Additional information about the Build Alternatives can be found in the DEIS.

USACE ANTICIPATED DIRECT EFFECTS ON REGULATED AQUATIC RESOURCES OF MLS ALTERNATIVES:

| Proposed Alternative Totals | Stream Impact | | Stream Impact | Wetland Impact | |
|-----------------------------|---------------|-------|---------------|----------------|-------|
| | Sq. Ft. | Ac. | Linear Feet | Sq. Ft. | Ac. |
| Alternative 8 | 1,751,484 | 40.21 | 135,192 | 702,478 | 16.18 |
| Alternative 9 | 1,751,484 | 40.21 | 135,192 | 702,478 | 16.18 |
| Alternative 9-M | 1,743,044 | 40.01 | 134,527 | 691,031 | 15.92 |
| Alternative 10 | 1,762,105 | 40.45 | 136,245 | 710,212 | 16.35 |
| Alternative 13B | 1,750,538 | 40.19 | 135,104 | 701,290 | 16.15 |
| Alternative 13C | 1,757,140 | 40.34 | 135,902 | 708,562 | 16.32 |

MDE ANTICIPATED DIRECT EFFECTS ON REGULATED AQUATIC RESOURCES OF MLS ALTERNATIVES:

| Proposed Alternative Totals | Stream Impact | | Stream Impact | Wetland Impact | | Wetland Buffer Impact | | Floodplain Impact | |
|-----------------------------|---------------|-------|---------------|----------------|-------|-----------------------|-------|-------------------|-------|
| | Sq. Ft. | Ac. | If | Sq. Ft. | Ac. | Sq. Ft. | Ac. | Sq. Ft. | Ac. |
| Alternative 8 | 1,755,162 | 40.29 | 140,632 | 702,625 | 16.17 | 2,306,797 | 52.99 | 5,206,833 | 119.5 |
| Alternative 9 | 1,755,162 | 40.29 | 140,632 | 702,625 | 16.17 | 2,306,797 | 52.99 | 5,206,833 | 119.5 |
| Alternative 9-M | 1,752,947 | 40.24 | 141,116 | 691,178 | 15.91 | 2,285,645 | 52.50 | 5,075,288 | 116.5 |
| Alternative 10 | 1,771,798 | 40.67 | 142,807 | 710,359 | 16.36 | 2,327,615 | 53.48 | 5,227,207 | 120.0 |
| Alternative 13B | 1,760,399 | 40.41 | 141,677 | 701,437 | 16.15 | 2,303,914 | 52.93 | 5,205,627 | 119.5 |
| Alternative 13C | 1,766,792 | 40.56 | 142,458 | 708,709 | 16.31 | 2,321,947 | 53.35 | 5,223,984 | 119.9 |

APPLICANT'S PROPOSED AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION: Impacts to wetlands, their buffers, waterways, and the FEMA 100-year floodplain are being minimized to the greatest extent practicable at this stage of the project for all Build Alternatives. Avoidance and Minimization will continue throughout the design process.

Extensive design revisions were made to avoid and minimize direct impacts to natural resources including:

- Elimination of the collector-distributor system on I-270;
- Preliminary alignment shift designs;
- Alterations to preliminary roadside ditch and grading designs;
- Additions to preliminary retaining wall designs to minimize the roadway footprint;
- Revisions to preliminary ramp designs, construction access areas, and preliminary stormwater management (SWM) facility locations; and
- Relocations of preliminary managed lane access locations.

Wetland mitigation requirements in Maryland and Virginia were developed using Corps and MDE standard practices. For any chosen alternative, the mitigation requirement in Maryland is approximately 29.44 acres of wetland mitigation and 99,348 linear feet of stream mitigation. Several mitigation opportunities were explored including on-site mitigation for open channels, mitigation banking, in-lieu fee programs, and off-site permittee-responsible mitigation on public and private lands. Permittee-responsible mitigation sites were chosen for the Draft Compensatory Mitigation Plan based on their potential for functional uplift, construction feasibility, proximity to the study area, mitigation credits, and replacement of lost functions and values resulting from roadway improvements.

Thirteen wetland and stream mitigation sites are proposed in the three HUC-8 watersheds where the project is located. Six of the mitigation sites are located in the Middle Potomac-Anacostia-Occoquan watershed in Montgomery and Prince George's counties, five sites are located in the Middle Potomac-Catoctin watershed in Montgomery and Frederick counties, and two sites are located in the Patuxent watershed in Prince George's and Anne Arundel counties. Construction of the proposed wetland and stream mitigation sites would temporarily impact approximately 85 acres of wetland and approximately 90,000 linear feet of stream.

CORPS EVALUATION REQUIREMENTS: This project will be evaluated pursuant to Corps Regulatory Program Regulations (33 CFR Parts 320-332). The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economic, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership and in general, the needs and welfare of the people. The evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency.

ENDANGERED SPECIES: A preliminary review of this application indicates that the proposed work is not likely to adversely affect Federally-listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site lies in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. FHWA has made a preliminary determination that the project will have no effect on EFH. FHWA has made a preliminary determination that

mitigative measures are not required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES: FHWA is completing Section 106 of the National Historic Preservation Act (NHPA) of 1966 compliance by participating in FHWA's Section 106 Programmatic Agreement. The sites covered in the JPA will require additional evaluation and FHWA has made the preliminary determination that the proposed project will have an adverse effect on historic properties. FHWA final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within FHWA's identified permit area.

TRIBAL RESOURCES: Section 106 of the NHPA also requires federal agencies to consult with federally-recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. FHWA Tribal Consultation Policy mandates an open, timely, meaningful, collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages, before decisions are made and actions taken. FHWA final eligibility and effect determination will be based on coordination with interested tribes, in accordance with FHWA current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408): All Section 408 proposals will be coordinated internally at USACE. If required, the Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408: <https://www.nab.usace.army.mil/Missions/Regulatory/Section-408-Requests/>.

WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from MDE, the Section 401 certifying agency. The applicant expects to apply for 401 certification from MDE concurrent with publication of the Final Environmental Impact Statement (FEIS) and comments from the public will be requested via a separate public notice.

COASTAL ZONE MANAGEMENT PROGRAMS: The applicant is required to obtain Coastal Zone Management consistency approval in accordance with the Federal Coastal Zone Management Act of 1972. The applicant expects to apply for CZM approval from MDE concurrent with publication of the FEIS and comments from the public will be requested via a separate public notice.

The applicant must obtain any Federal, State or local government permits and authorizations that may be required.

SUBMISSION OF COMMENTS: The Corps and MDE are soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. Comments are also used to determine the overall public interest of the proposed activity.

For MDE, only those issues subject to regulation by the MDE Nontidal Wetlands and Waterway Construction Divisions (impacts to nontidal wetlands, wetland buffer, and waterways, including the 100-year nontidal floodplain) will be considered in rendering a decision to grant or deny the MDE Permit. **Future public notices on the application will be included on the MDE website** (https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/MLS_I-495_I-270.aspx) **and sent via certified mail to any newly identified adjacent property owners and sent via regular mail to the Interested Persons List.** Please

refer to Subsection 5-907 of the Annotated Code of Maryland or the Code of Maryland Regulations 26.23.02 for information regarding the application process.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the Corps, Baltimore District and MDE within the comment period specified above through postal mail at the addresses below or electronic submission to the project manager email address below. Comments should reference the USACE Application Number (NAB-2018-02152) and the MDE Tracking Numbers 20-NT-0114 / 202060649.

U.S. Army Corps of Engineers
Baltimore District
Attn: Mr. Jack Dinne
2 Hopkins Plaza
Baltimore, Maryland 21201
(410) 962-6005
john.j.dinne@usace.army.mil

Maryland Department of the Environment
Wetlands and Waterways Program
Attn: Mr. Steve Hurt
1800 Washington Blvd., Suite 430
Baltimore, Maryland 21230-1708
443-856-4760
MDE.SHAprojects@maryland.gov

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the Corps' permitting process can be found on the following website: <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. General information regarding the MDE Nontidal Wetlands and Waterways permitting process can be found online at the following web address: <https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/index.aspx> This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project, please contact the individuals listed above.