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*CERTIFIED MAIL*

September 26, 2022

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

Mr. Steve Hurt  
Maryland Department of the Environment Wetlands and Waterways Program  
1800 Washington Boulevard, Suite 430  
Baltimore, Maryland 21230-1708

**SUBJECT:** Maryland Department of Transportation State Highway Association I-495 I-270 Managed Lane Study USACE Application Number (NAB-2018-02152) and the MDE Tracking Numbers 20-NT-0114/202060649

Dear Mr. Ozburn and Mr. Hurt:

The City of Rockville (City) Department of Public Works (DPW) submits the following comments in reference to the application mentioned above:

1. Despite the City experiencing disproportional impacts to waterway and wetlands, the mitigation proposed within the City is severely lacking. There are little compensatory stormwater, wetland and waterway projects within the City limits outlined in this permit. The City repeatedly suggested possible mitigation project site locations within the City during staff level meetings and correspondence. It does not appear that the applicant has adequately endeavored to mitigate impacts within the vicinity of the project. The City asks the U.S. Army Corps of Engineers to require the State Highway Administration (SHA) to include additional waterway and wetland mitigation projects within the City limits before approving this application.
2. The City requests that this Joint Permit Application (JPA) be revised to include all anticipated impacts. The report clearly references that more impacts are expected but are not included in the JPA. Additionally, the City, or the public, cannot adequately evaluate the impacts to the City's resources and community without a complete understanding. There are three specific instances in the Final Avoidance, Minimization, And Impacts Report, dated July 2022, where impacts are noted, but there are no restorations identified or included in the report. How can the application be considered complete, if the applicant does not include these likely impacts and mitigation?

Further, not including these impacts and mitigation in the JPA clearly contradicts the applicant's own statement in the Wetland and Water Delineation Report for the I-495 and I-270 Managed Lanes Compensatory Stormwater Quality Treatment Sites.

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The first paragraph of the Introduction (page 3 of 6) of the reports states “All impact to the wetlands and waterways that would result from the construction of the Managed Lane Studies (MLS) are required to be included in the Final Environmental Impact Statement (FEIS) and impacts for the Phase I South of the MLS are required to be included in the revised Joint Permit Application (JPA).” The City asks the U.S. Army Corps of Engineers to return the application to the applicant as incomplete and not process the application until all likely impacts and appropriate mitigation are identified and the public is allowed to review and comment.

Below are the three instances where impacts are noted as likely in the report, but the exact extent of the impact and the mitigation is not identified:

- a) In the Final Avoidance, Minimization, And Impacts Report July 2022 under 2.2.3D Cabin John Creek – Montrose Road (page 24 of 102) the report notes that culvert augmentation for 24F may be required to maintain headwater depths. However, there are no restoration and no impacts included.
  - b) In the Final Avoidance, Minimization, And Impacts Report July 2022 under Appendix B: Culvert Augmentation Assessment Results Feature ID #26C\_C (page 84 of 102) the report notes downstream instability. SHA should expand Limits of Disturbance (LOD) to provide stream restoration as this instability is generally attributed to the SHA culverts. However, there are no restoration and no impacts included.
  - c) In the Final Avoidance, Minimization, And Impacts Report July 2022 under Appendix B: Culvert Augmentation Assessment Results Feature ID #26B\_C (page 95 of 102) the report notes downstream instability. SHA should expand LOD to provide stream restoration as this instability is generally attributed to the SHA culverts. However, there are no restoration and no impacts included.
3. Finally, DPW does not feel that the public benefits of the selected option chosen by the applicant outweighs the impacts to the waters, tributaries, and wetlands of the United States. There are roadway options that have much less impact to waterways and wetlands and almost are much transportation benefits. Instead, the MDOT SHA selected option provides significantly higher impacts to the community.
  4. Below is an error found in the report:  
In the Final Avoidance, Minimization, And Impacts Report July 2022  
[https://oplanesmd.com/wp-content/uploads/2022/07/Final\\_AMR\\_July2022.pdf](https://oplanesmd.com/wp-content/uploads/2022/07/Final_AMR_July2022.pdf),  
Appendix B: Culvert Augmentation Assessment Results Feature ID#27L\_C(page 80/102),  
report notes that SHA ditch drains into County 60-inch pipe. However, it drains into a City not a Montgomery County pipe.

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If you have questions, please contact me via email at [csimoneau@rockvillemd.gov](mailto:csimoneau@rockvillemd.gov) or via telephone at 240-314-8500.

Sincerely,

*Craig Simoneau*

Craig L. Simoneau, PE  
Director of Public Works

JKS/CLS/kmc

cc: Rob DiSpirito, City Manager  
Jim Woods, Deputy Director of Public Works  
Erica Shingara, Chief of Environmental Management  
Emad Elshafei, Chief of Traffic and Transportation  
John Scabis, Chief of Engineering  
Jeffrey Folden, SHA  
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