

June 3, 2022

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

Dear Mr. Secretary:

Our organizations write to urge you to reject the I-495 and I-270 Managed Lanes Study because the environmental review does not meet requirements of the National Environmental Policy Act, policy guidelines of the U.S. Department of Transportation, the Federal Highway Administration and the Council on Environmental Quality, and priorities established by President Biden. Specifically, the Draft Environmental Impact Statement (DEIS) and the subsequent Supplemental Draft Environmental Impact Statement (SDEIS) failed to provide analyses for greenhouse gas emissions and environmental justice impacts.

An outright rejection of the Managed Lanes Study is appropriate given the failure of the Maryland Department of Transportation to meet federal requirements. But at the very least, we urge the USDOT to require that a complete and correct SDEIS, with a 90-day public comment period, be issued to address deficiencies. Moreover, we urge that a similar formal public comment process be held for the release of the Final Environmental Impact Statement (FEIS) which is expected to include substantial new information in response to 5,000 DEIS and SDEIS comments from the public and local officials.

Greenhouse Gas Emissions

Contrary to federal policy, there has been no analysis of greenhouse gas (GHG) emissions from the operation of the toll lanes. [Executive Order 13990](#), issued by President Biden on January 20, 2021, states in Section 1 that it is the policy of the Administration to “reduce greenhouse gas emissions.” A policy to reduce GHG emissions cannot be implemented if there is no analysis of these emissions.

Moreover, when the Council on Environmental Quality (CEQ) issued a notice of actions in the [February 19, 2021 Federal Register](#) to follow up on Executive Order 13990, it stated that, “NEPA requires Federal agencies to consider the environmental effects of its proposed actions and involve the public in its decision-making processes.” The CEQ went on to state that, “Federal courts consistently have held that NEPA requires agencies to disclose and consider climate impacts in their reviews. *See, e.g., Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172 (9th Cir. 2008).”

While the addition of lanes would increase vehicle miles traveled, there are other design features that indicate that GHG emissions will increase. In [comments](#) on the SDEIS, the Maryland-National Capital Park and Planning Commission (M-NCPPC) noted that the Preferred Alternative would shift the bottleneck at the American Legion Bridge to other locations. They stated that, “While some of the bottleneck shifts were expected, the degree of congestion resulting from the proposed project is severe on I-270 north of I-370, on the Inner Loop on the top side of the Beltway, and on the Inner Loop in Prince George’s County.” The “severe” congestion noted by the M-NCPPC would be a source of increased GHG emissions. Yet there has been no analysis.

The SDEIS also did not include an analysis of GHG emissions from construction activity. Instead, this analysis is being deferred until the Final Environmental Impact Statement (FEIS). By postponing the issuance of this analysis until after the close of the formal public comment process, the public is being denied its right to consider the impact of the emissions and to propose measures to mitigate them.

Environmental Justice

Contrary to USDOT policy, the SDEIS did not include an environmental justice analysis to determine whether low-income communities and communities of color would bear a disproportionate burden of the harmful impacts of the I-495/I-270 toll lanes. Instead, this analysis is being deferred until the FEIS.

[U.S. Department of Transportation Order 5610.2\(a\)](#) commits the Department to advance the principles of environmental justice “by fully considering environmental justice principles throughout the planning and decision-making processes in the development of program, policies and activities using the principles of the National Environmental Policy Act...” Similarly, the [Federal Highway Administration \(FHWA\) Order 6640.23A](#) delineates a policy committing the Agency to “identify and prevent discriminatory effects...to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision-making process—from early planning through implementation.”

Despite policies requiring that environmental justice be addressed early and throughout the decision-making process, the environmental justice analysis for the toll lanes will not be made available to the public until the FEIS is issued, more than six months after the close of the formal public comment process. Blocking the public from understanding and influencing the environmental justice impacts of the toll lanes is a stunning failure to meet USDOT and FHWA requirements.

Public Comment Process for FEIS

Adding private toll lanes to I-495 and I-270 is a large and controversial project that would have substantial impacts on the environment and our communities. The FEIS will need to respond to approximately 5,000 public comments submitted in response to the DEIS and the SDEIS combined.

In addition, many substantial concerns with the SDEIS have been raised by local officials which will presumably be addressed in the FEIS. For example, in a [letter](#), Montgomery County Executive Marc Elrich criticized the failure to include an estimate of public subsidies in the SDEIS, noting that higher costs could lead to reductions in state funding for future County transportation priorities. The County Executive also criticized the failure of the SDEIS to adequately study the impact on local roadways. In its SDEIS comments, the M-NCPPC cited the “Lead Agencies failure to undertake a comprehensive analysis of reasonable alternatives, impacts and mitigation measures.”

The M-NCPPC also raised serious concerns about the traffic modeling, stating that:

Additionally, there are a number of inconsistent conclusions and assumptions in the SDEIS’s transportation modeling and forecasts. The Project claims to improve traffic congestion, but its analysis finds that there are significant segments where the General Purpose lanes worsen significantly as a result of this Project. While the cause of these issues may be subject to debate, MDOT SHA surely has the responsibility to explain or reanalyze the transportation model, its assumptions and conclusion to resolve these inconsistencies. The purpose and need cannot be achieved if the very basis of the Project, to relieve congestion, is called into question.

Given the extensive new information which is expected to be included in the FEIS, it is imperative that there be a formal public review and comment process. There are precedents for holding a public comment process for the FEIS, including for the I-45 North Houston Highway Improvement Project and the I-26 Connector in Asheville, NC.

Conclusion

The hallmark of the I-495/I-270 Managed Lanes Study has been an utter lack of transparency on vital concerns. It would be a failure of federal oversight for the USDOT to approve a study which has failed to identify and address environmental justice and greenhouse gas emissions impacts that are required by NEPA and set forth in policies of the Department of Transportation, the Federal Highway Administration and the Council on Environmental Quality and which are priorities specified in Executive Order 13990. We urge you to reject the study.

At the very least, we urge you to require that the SDEIS be reissued for public comment and that a public comment process be imposed for the issuance of the FEIS.

Sincerely,

American Federation of State, County and Municipal Employees, Maryland Council 3
Anacostia Riverkeeper
Audubon Naturalist Society
Bikemore
Cedar Lane Unitarian Universalist Church Environmental Justice Team
Central Maryland Transportation Alliance
Chesapeake Bay Foundation
Citizens Against Beltway Expansion
Coalition for Smarter Growth
DontWiden270.org
DoTheMostGood
Forest Estates Community Association
Friends of Sligo Creek
Glen Echo Heights Mobilization
Greater Farmland Civic Association
Greenbelt Climate Action Network
Howard County Climate Action
Indivisible Howard County
League of Women Voters of Maryland
Maryland Conservation Council
Maryland Sierra Club
Montgomery County Faith Alliance for Climate Solutions
NAACP Maryland State Conference, Environmental and Climate Justice Committee
National Parks Conservation Association
Northern Virginia Citizens Association
Service Employees International Union Local 500
Takoma Park Mobilization Environment Committee
The Ocean Foundation
The Climate Mobilization, Montgomery County Chapter
Washington Biologists' Field Club
West Montgomery County Citizens Association
Woodside Forest Civic Association

c: The Honorable Polly E. Trottenberg, Deputy Secretary, USDOT
The Honorable Stephanie Pollack, Deputy Administrator, FHWA

The Honorable Gregory Murrill, Division Administrator, FHWA