

## Appendix B – Agency DEIS Comments and Responses

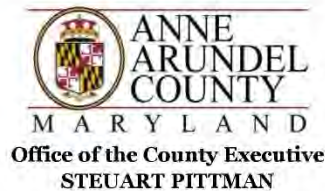
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## Anne Arundel County Comment



Anne Arundel County  
Office of County Executive Steuart Pittman  
Bay Crossing Study DEIS  
May 10, 2021

Anne Arundel County's review of the Bay Crossing Study (BCS) Tier 1 DEIS revealed that the study is flawed, and doesn't justify its purpose or the need for a third span. The County's comment on the DEIS, a review required under the National Environmental Policy Act (NEPA), raises serious concerns about appropriately addressing traffic congestion, travel demand, and impacts to sensitive environmental resources which adversely affect communities.

The County finds this study to be a blueprint for projecting sprawl development. For the reasons outlined in the comment below, the County is reaffirming its opposition to the study, which should be paused and not advanced to the Final Environmental Impact Study (FEIS). The DEIS demonstrates the lack of need for a multi-billion dollar taxpayer-funded third span.

### Traffic Assumptions

Traffic growth projections in the DEIS do not consider the Bay Bridge's recent traffic history, including the effects the COVID-19 pandemic had on traffic, increased telecommuting, and future economic activity.

- The DEIS projects traffic growth by 2040 of 22.9% for an average non-summer weekday and 14.1% for a summer weekend. These projections should be called into question by the historical fact that there has been no material change in annual or average daily traffic on the Bridge from 2007 to 2017.
  - The Annual Chesapeake Bay Bridge Volume data (page 2-2, 2-3, which goes up to 2017) shows a decline in traffic in 2007-2017 and that it flattened during the Great Recession in 2008-2009.
  - The traffic on the bridge has been flat for decades based on this data.
  - The study overstates future growth in the number of vehicles that will be crossing the water.
- The DEIS should address dramatic reductions in traffic demands as a result of the COVID-19 pandemic, which produced noticeable declines in traffic delays, energy consumption, and emissions.

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- Traffic data has been collected throughout the pandemic; yet there is no pandemic-related data in the study.
  - MDTA did not collect eastbound daily tolls.
  - Travel patterns and volumes have changed significantly since the beginning of the pandemic, and the study should have reflected these adjustments in patterns.
- The DEIS, in projecting future degrees of congestion, presents data from 2016 and traffic counts collected in 2017 - data that is now nearly a half-decade out of date..
  - General practice when publishing transportation-related DEIS is to present traffic data collected within the preceding three years.
  - The DEIS should amend the outdated information to reflect more recent traffic counts and conditions.
  - The DEIS anticipates delays in the eastbound direction, but does not quantify delays after the implementation of all electronic tolling (AET) in May 2020, a significant change for the flow of eastbound traffic.
  - All consideration of the benefit effects of AET is postponed to be addressed only "as needed" in a possible later NEPA document, ensuring a significant change that could reasonably affect the outcome of this study is instead not contemplated by the study at all.

The DEIS traffic projections are based on data that just doesn't make the case to allocate resources for building a multi-billion dollar third span. It makes claims about the existing and projected eastbound queues, using traffic counts and speed data pre-dating the current reality of AET on the Bridge. The effect of AET on traffic queue length could have been estimated by MDTA from an earlier study, which found that AET would produce up to 80% reduction in queue lengths at the Bridge. This feasible calculation would reduce 2040 eastbound summer weekend queues projected in the DEIS from 13 miles to 2.6 miles - less than 4 miles cited as the current condition, and not a favorable result for the case the DEIS is trying to make.

A smart growth strategy would take into account the efficient use of transportation corridors and use of public transit and other innovative transportation options to minimize the use of automobiles and to protect environmentally sensitive areas. This study does none of this - it should be paused.

#### **Purpose and Need Assessment**

The DEIS purpose and need is not justified and appears to be centered solely on the bridge itself, rather than addressing the need to accommodate travel from the Western Shore of the Chesapeake Bay, including Northern Virginia, West Virginia, Washington D.C., and Pennsylvania to the Eastern Shore of Maryland. In other words, the DEIS purpose and need focuses on moving cars, not on moving people.

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Public statements made by the Governor of Maryland prior to the completion of the study that “there is only one option I will ever accept” calls into question the undue influence about whether the NEPA study was adequately followed. Typically, a robust scientific NEPA analysis is conducted before selecting a preferred alternative. The Governor’s statement calling out a preferred corridor prior to the completion of the study undermines confidence in what really drove the purpose and need - the corridor selection rather than scientific analysis.

Current and future traffic congestion on and near the existing Chesapeake Bay Bridge was the primary concern behind the crossing’s purported purpose and need. This primary concern ignored the entire transportation network of Central Maryland and the Eastern Shore, and was driven by questionable assumptions of population growth and sprawling new developments on the Eastern Shore. The study shows very small increases in traffic volumes in recent years, calling into question the larger increases projected in future years. Sufficient detail on the Origin and Destination analysis and the summertime traffic projections were not provided in the DEIS or Appendices to adequately determine how these assumptions were generated.

This study missed the mark on justifying a clear and concise purpose and need..

#### **Environmental Impacts**

The DEIS fails to address the environmental impacts of constructing a new bridge across the Chesapeake Bay. Below are a few of the impacts that the DEIS lists but does not discuss adequately:

- The DEIS Corridor 7 contains approximately 6,640 acres of mapped 100-year FEMA floodplain, and intersects the largest area of floodplain of three corridors. Based on the distribution of 100-year FEMA floodplain within the limits of Corridor 7, the area with the highest potential for impacts is located within the eastern section of the corridor between Kent Island and the Eastern Shore.
- The DEIS Corridor 7 contains approximately 9,810 acres of land that fall within the limits of the Critical Area. The majority is classified as Resource Conservation Area (RCA - the most restrictive critical area classification), but the corridor also contains relatively high levels of both Limited Development Area (LDA) and Intensely Developed Area (IDA).
- The DEIS offers generalized descriptions of the environmental assets in the preferred corridor for the new bridge. The sketches within the study show the environmental impacts of a third span will likely be significant.
- Evaluation of these impacts with much more specificity should be revealed in this study and not postponed to a later EIS.
- The preferred Corridor 7 contains 10,870 acres of mapped tidal wetlands (9,600 acres of open water and 1,270 acres of coastal wetlands). These tidal wetlands constitute approximately 34% of the total corridor. Similarly, 3,460 acres of valuable oyster resources and 5,140 acres of (RCA)
- Corridor 7 contains the highest amount of land area susceptible to sea level rise based on the projections for 2050 and 2100. The highest concentrations are located within the

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section of the corridor that spans Kent Island and at Kent Narrows and the Chester River in the eastern portion of the corridor.

- Corridor 7 contains 6,900 acres of forest interior dwelling species (FIDS) habitat, which represents 25% of the total corridor study area, and 2,180 acres of Sensitive Special Projects Areas. These areas contain biological resources that require conservation and protection.

The study is silent on possible significant adverse effects to fish, wildlife, plant habitat, and increased flooding within the critical area, postponing these concerns to a later date rather than addressing them directly. And it provides no alternatives that could be taken to reduce and mitigate these impacts.

#### **No-Build Alternative**

The DEIS calls for “updates as needed during Tier 2” to reflect future projects that were not planned and programmed as of Project Scoping in 2017. In other words, it never seriously examined the alternative of not building an additional Bay Bridge span.

Federal guidelines require EIS to address the no-build alternative and rigorously explore and objectively evaluate all reasonable alternatives. The DEIS does not meet this requirement. The no-build alternative is not properly characterized or discussed when, as in the DEIS, available strategies to better manage traffic operations and demand under that alternative are excluded from consideration.

The DEIS states that “transportation system management/travel demand management (TSM/TDM) measures such as improvements to contraflow operation on the existing bridge may be implemented. It says specific examples of TSM/TDM improvements “could include” implementing all electronic tolling and variable tolls. Nevertheless, it then cuts off further discussion by stating that if TSM/TDM improvements are implemented, that will be done “separately from the Bay Crossing Study”. It also states that a combination of alternatives, such as MOAs in combination with a recommended corridor alternative, will be evaluated in “Tier 2” to determine whether such a combination could satisfy the transportation needs in combination with alternative alignments.

In contrast, the AKRF Study directly addresses TSM/TDM measures and indicates the potential they have for lowering peak period congestion.

This section of the DEIS study does not comply with Federal statute - it lacks justification, and is not comprehensive and specific as possible to even be considered for a Tier 2 evaluation.

#### **Stakeholder Involvement**

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Anne Arundel County and Queens Anne's County should have been consulted throughout this process due to the significant impacts a potential crossing will have on transportation networks, development plans, and surrounding communities. However, neither jurisdiction was involved in the process and was only provided notice at the same time and degree as the general public.

### **Conclusion**

The unstated goal of this study is not to analyze relevant data and information to determine whether or not an additional span across the Chesapeake Bay is the appropriate long-term solution to traffic congestion. If that were the goal, the concerns noted above provide immediate cause to pause this process rather than move to the FEIS stage.

Instead, the goal of this study is to demonstrate that the only possible solution to traffic congestion on the Bay Bridge is to build another bridge. But the study fails in this aim, too, by using out-of-date data, by not adjusting analysis based on massive changes in traffic patterns over the last year, by failing to account for myriad environmental impacts, and by declining to fully consider a no-build alternative.

The failure of this multi-million dollar taxpayer-funded study to adequately assess any options other than the one supported by the Governor raises serious questions about motive. Maryland used to lead the nation in smart growth planning, the concept whereby development is targeted to areas where infrastructure exists, and transportation investments are placed where development is targeted. Building this span rejects that history, in support of a project that will inevitably lead to more sprawl.

Let's stop pretending that this kind of transportation investment is our future. Let's stop this project.

If you have any questions regarding these comments please contact Ms. [Lori Rhodes](#), Deputy Chief Administrative Officer for Land Use.

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AMENDED  
June 21, 2021

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2021, Legislative Day No. 13

Resolution No. 32-21

Introduced by Ms. Fiedler and Ms. Rodvien

By the County Council, June 7, 2021

- 1       RESOLUTION in opposition to preparing a Final Environmental Impact Statement and  
2       Record of Decision for the third span of the Chesapeake Bay Bridge  
3  
4       WHEREAS, on August 30, 2016, Governor Larry Hogan announced the funding  
5       of \$5,000,000.00 for a Chesapeake Bay Bridge Third Span Study to be sponsored  
6       by the Maryland Transportation Authority (“MDTA”); and  
7  
8       WHEREAS, in the spring of 2018, MDTA prepared purpose and need statements,  
9       without review or input from Anne Arundel County; and  
10  
11       WHEREAS, the purpose statement is “to consider corridors for providing  
12       additional capacity and access across the Chesapeake Bay in order to improve  
13       mobility, travel reliability, and safety at the existing bridge”; and  
14  
15       WHEREAS, the need statement identifies the following needs: “adequate capacity,  
16       dependable and reliable travel time, and flexibility to support maintenance and  
17       incidents”; and  
18  
19       WHEREAS, the purpose and need statements fail to include a study of the  
20       approaching and descending corridors on the Eastern and Western shores; do not  
21       include an evaluation of the impacts to residents, commuters, and commerce on the  
22       Eastern and Western shores; and do not address Quality of Life impacts on the  
23       region, including safety, redundancy, commerce, growth, development, tourism, or  
24       creating a more direct route to key Eastern Shore destinations; and  
25  
26       WHEREAS, MDTA initially identified 14 potential corridors for a third span of the  
27       Bay Bridge, but in August of 2019, MDTA narrowed the potential locations to  
28       three: (1) from Pasadena to Centreville; (2) the existing bridge corridor from east  
29       of Annapolis, near Sandy Point State Park, to Kent Island; (3) from the Mayo  
30       Peninsula in Anne Arundel County to near St. Michaels in Talbot County; and  
31  
32       WHEREAS, MDTA recently narrowed the potential location for a new Bay Bridge  
33       to one and recommends building the new Bay Bridge in the corridor of the existing  
34       two spans that cross between Anne Arundel County and Kent Island, stating that  
35       the other locations would fail to divert sufficient traffic away from the existing  
36       bridge; and

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EXPLANATION:    Underlining indicates matter added to resolution by amendment.  
                          Strikeover indicates matter removed from resolution by amendment.

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Resolution No. 32-21

Page No. 2

1 WHEREAS, in February of 2021, MDTA, in cooperation with the Federal Highway  
2 Administration ("FHWA"), issued a Draft Environmental Impact Statement  
3 entitled "Chesapeake Bay Crossing Study: Tier 1 NEPA"; and  
4

5 WHEREAS, MDTA's Draft Environmental Impact Statement indicates that a new  
6 crossing is needed to accommodate increasing traffic volumes, but an analysis  
7 funded by the Queen Anne's Conservation Association suggests the traffic  
8 projections are inflated; and  
9

10 WHEREAS, it is highly likely that additional traffic lanes will be quickly offset by  
11 greater demand, thereby further increasing traffic and congestion in central Anne  
12 Arundel County; and  
13

14 ~~WHEREAS, MDTA completed the Tier 1 Final Environmental Impact Statement~~  
15 ~~and Record of Decision in February of 2021, without any additional public~~  
16 ~~hearings; and~~  
17

18 WHEREAS, FHWA and MDTA have announced their intention to issue a  
19 combined Final Environmental Impact Statement and Record of Decision  
20 sometime in the winter of 2021/2022; and  
21

22 WHEREAS, while public comments received in response to a Draft Environmental  
23 Impact Statement must be considered in drafting a combined Final Environmental  
24 Impact Statement and Record of Decision, there is not a clear process set out in  
25 federal law that mandates publication or a public comment period on the Record of  
26 Decision; and  
27

28 WHEREAS, there is significant opposition to the construction of a new bridge in  
29 the corridor of the existing bridge; and  
30

31 WHEREAS, constructing another crossing in the present corridor will take a  
32 significant toll on 14 public parks, including Sandy Point State Park, and will  
33 severely exceed the capacity of existing roadways and related infrastructure; now,  
34 therefore, be it  
35

36 *Resolved by the County Council of Anne Arundel County, Maryland,* That it opposes  
37 the completion of the Tier 1 Final Environmental Impact Statement and Record of Decision  
38 for the third span of the Chesapeake Bay Bridge without further review and without  
39 amended purpose and need statements; and be it further  
40

41 *Resolved,* That a copy of this Resolution be sent to County Executive Stuart Pittman;  
42 Governor Larry Hogan; Gregory Slater, Maryland Secretary of Transportation; James  
43 Ports, Jr., Executive Director, MDTA; Heather Lowe, Project Manager, MDTA; State  
44 Delegates Heather Bagnall, Sid Saab and Michael E. Malone; State Senator Edward R.  
45 Reilly; U.S. Senators Chris Van Hollen and Benjamin Cardin; U.S. Congressman Anthony  
46 Brown; Pete Buttigieg, U.S. Secretary of Transportation; Jeanette Mar, Environmental  
47 Program Manager, FHWA Maryland Division; Karen Kahl, Project Manager, RK&K; and  
48 Tim Ryan, Project Manager, Traffic Analysis, AECOM.



Resolution No. 32-21  
Page No. 3

AMENDMENTS ADOPTED: June 21, 2021

READ AND PASSED this 21<sup>st</sup> day of June, 2021.

By Order:



Laura Corby  
Administrative Officer

I HEREBY CERTIFY THAT RESOLUTION NO. 32-21 IS TRUE AND CORRECT AND DULY  
ADOPTED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY.



Sarah F. Lacey  
Chair

## Anne Arundel County Response

The Bay Crossing Study Team appreciates the input provided by Anne Arundel County on the Tier 1 DEIS. MDTA will continue to coordinate with Anne Arundel County throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study. In response to specific comments contained in Anne Arundel County's comment letter, the Bay Crossing Study Team offers the following response:

### Traffic Assumptions

Forecasts of 2040 traffic volumes were prepared using the Maryland Statewide Transportation Model (MSTM), a state-of-the-practice model and approach for traffic forecasting. The MSTM has been used extensively by the Maryland Department of Transportation on many projects, and the BCS traffic forecasting methodology was developed in coordination with FHWA. The MSTM forecasted traffic volumes are based on forecasts of population and employment provided by local counties.

Supplementary traffic analysis discussion related to effects of the COVID-19 pandemic and implementation of all-electronic tolling (AET) at the existing Bay Bridge is included in **Section 3.1** of this FEIS. Preliminary data indicates that Bay Bridge volumes and congestion may return to pre-COVID levels. The Bay Crossing Study reflects long-term forecasts of economic activity, by using anticipated levels of population and employment in the analysis year. Revised traffic analysis in a potential future Tier 2 study would account for updated growth forecasting, including any foreseeable changes resulting from COVID-19 or other potential future changes in travel patterns.

In response to comments from Anne Arundel County and others, MDTA examined in the FEIS the impact of implementing AET (see **Section 3.1**). The ongoing substantial queues observed, even following full implementation of AET, suggest that the technology, by itself, does not eliminate congestion in the eastbound direction. Given the volumes attempting to cross the Bridge during peak periods, the Bridge itself remains a constraint on capacity. This additional data collection shows that AET reduces or even eliminates delays and queuing at the Bay Bridge when low to moderate volumes are present; that is, when the capacity of the Bridge does not constrain traffic flow. However, as volumes approach the capacity of the Bridge, queues and delays still occur, even with AET. Additional data regarding the impact of AET would be collected in a potential future Tier 2 study as part of the updated traffic analysis mentioned previously.

### Purpose and Need Assessment

The BCS Purpose and Need was been established by MDTA and the Federal Highway Administration (FHWA) to focus on the extensively documented problems of traffic congestion at the existing Bay Bridge, which is an MDTA-owned facility. MDTA is responsible for evaluating and considering solutions to the existing problem at the MDTA facility. Thus, the Purpose and Need for the study, and the transportation solutions reflected in the Tier 1 EIS alternatives emphasized traffic relief at the existing Bay Bridge. The BCS Purpose and Need was concurred upon by FHWA and all BCS Cooperating Agencies in July 2018. The decision to advance Corridor 7 as the preferred corridor for any future crossing would not preclude separate studies of new or different infrastructure in Corridor 7 or in the general study area with different purposes from the BCS Purpose and Need.

Public and agency input emphasized the potential for induced growth effects of a new crossing as a topic of particular importance for the Tier 1 Study. An Induced Growth Analysis is provided in the Indirect and Cumulative Effects (ICE) Technical Report and summarized in DEIS Section 4.8. A crossing in a new location over the Chesapeake Bay would allow new access to rural, undeveloped areas on the Eastern Shore. This new access, considered in light of the major employment centers on the Western Shore, would likely lead to induced growth of residential and commercial development on the Eastern Shore. Corridor 6 would likely have the greatest potential for induced growth, given its close proximity to the Baltimore metropolitan area, and Corridor 8 would also have likely induced growth effects, given its proximity to Annapolis and somewhat more distant proximity to Washington, DC. Corridor 7, the Preferred Corridor Alternative (PCA) would likely have the least extent of indirect effects due to the presence of the existing crossing and associated infrastructure in Corridor 7. Substantial growth and development have already occurred along Corridor 7, so a new crossing within that corridor would likely continue, and perhaps accelerate, existing land use development patterns.

### Environmental Impacts

The information included in the Tier 1 EIS is consistent with the purpose of a Tiered EIS study, which is to focus on the level of detail appropriate for decision-making across a broad geographic area. Greater detail on environmental resources and potential impacts of specific proposed roadway alternatives would be the subject of a potential future Tier 2 study. This would include development of limits of disturbance for multiple alternatives, detailed impact assessments and field data. Supplemental discussion of sea level rise and climate change has been included in this FEIS, **Section 3.2**.

### No-Build Alternative

The No-Build Alternative includes all currently planned and programmed infrastructure projects as of Project Scoping in 2017 and includes regular maintenance at the Bay Bridge. TSM/TDM measures beyond those presently implemented as of 2017 are not included in the No-Build in order to provide a baseline of comparison for all alternatives. TSM/TDM measures were evaluated as part of the Modal and Operational Alternatives (MOA), which were evaluated individually to determine if they could meet the Purpose and Need. While none of the MOAs, including TSM/TDM, would meet the Purpose and Need individually, a number of the MOAs, including TSM/TDM would be brought forward and analyzed further in a Tier 2 Study within the context of Corridor 7.

The No-Build would be carried forward into a potential Tier 2 study, which would have to demonstrate a continued need for a new crossing at the time of the Tier 2 study in order to approve new capacity. A Tier 2 Study would consider all alternatives, including the No-Build and the MOA, in greater detail than in a Tier 1 level analysis.

### Stakeholder Involvement

Counties bordering the Chesapeake Bay in Maryland, including Anne Arundel and Queen Anne's Counties, were included as Local Stakeholders in the Bay Crossing Study Coordination Plan. The Bay Crossing Study team attended Maryland Association of Counties (MACo) conferences to present project milestones and meet with county representatives. The Bay Crossing Study team also solicited comments from local stakeholders via the project website after project milestones, including the release of the Tier 1 DEIS.

Comments received during the comment periods are available for review at [baycrossingstudy.com](http://baycrossingstudy.com) and were taken into account while writing the Tier 1 FEIS.

#### September 2021 Resolution

In addition to the DEIS comments provided above, MDTA also acknowledges the resolution adopted by the County Council of Anne Arundel county on September 20, 2021. The resolution concludes as follows:

*Resolved by the County Council of Anne Arundel County, Maryland, That it hereby finds that the best solution to maintain forward progress, support the investments already made along the US Route 50/301 corridor, specifically from I-97 to MD 404, and address the existing and future traffic capacity shortfalls is to replace the current two spans of the Chesapeake Bay Bridge with a single new replacement bridge, constructed at the same location, that includes a minimum of eight travel lanes to provide adequate capacity and dependable and reliable travel times; and be it further*

*Resolved, That the County Council hereby requests that the Tier 1 Chesapeake Bay Crossing Study be concluded, and that sufficient resources be allocated for the Tier 2 Chesapeake Bay Crossing Study; and be it further*

*Resolved, that this Resolution is contingent upon the Board of County Commissioners of Queen Anne's County, Maryland adopting a resolution that is substantially the same as this Resolution at their next meeting, and, if the Board of County Commissioners of Queen Anne's County does not adopt a resolution that is substantially the same as this Resolution at their next meeting, then this Resolution shall be considered null and void without further action of the County Council; and be it further*

*Resolved, That a copy of this Resolution be sent to the Board of County Commissioners of Queen Anne's County for further action.*

MDTA would continue to evaluate options for new crossing capacity in Corridor 7 in a potential future Tier 2 study, including a replacement of the current two spans of the Bay Bridge, along with details such as lane configurations. MDTA also notes that Queen Anne's County has passed a similar resolution (noted in the Queen Anne's County response later in this appendix).

## Critical Area Commission Comment

Larry Hogan  
*Governor*  
Boyd K. Rutherford  
*Lt. Governor*



Charles C. Deegan  
*Chairman*  
Katherine Charbonneau  
*Executive Director*

### STATE OF MARYLAND CRITICAL AREA COMMISSION CHESAPEAKE AND ATLANTIC COASTAL BAYS

April 13, 2021

Ms. Sara Williamson  
Bay Bridge Crossing Team  
5 Old Solomons Island Road  
Annapolis, MD 21401

**RE: Chesapeake Bay Crossing (CBC) National Environmental Protection Agency (NEPA)  
Draft Environmental Impact Statement (DEIS) Tier I Study**

Dear Ms. Williamson:

Thank you for the opportunity to review the Chesapeake Bay Crossing National Environmental Protection Agency's Draft Environmental Impact Statement Tier I Study (CBC DEIS Tier I Study). This office has reviewed the CBC DEIS Tier I Study and offers the following comments and edits (attached separately) regarding section 4.4.4 Chesapeake Bay Critical Area:

1. The CL land use designation in the CBC DEIS Tier I Study indicates that the Bay Crossing Study Team utilized Maryland's iMap layer for the Critical Area data and mapping. Please note that the Critical Area Commission is in the process of updating its Critical Area map statewide. For the Tier II Study, please utilize the updated mapping and associated data found at <http://webmaps.esrgc.org/cbca/desktop/Map>.
2. As stated in section 4.4.4, development activities located on Critical Area lands designated as Federal Lands (FED) must comply with the Coastal Zone Management (CZM) Act, which includes the Critical Area program. Please note that any impacts to lands that are part of the U.S. Naval Academy campus must comply with the CZM Act.
3. Lands designated as Corporate Lands (CL) mean that the project is located within a local municipality; they still maintain a designation of either Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA); we recommend that you coordinate either with our office or with the local municipality to acquire the maps with these designations.
4. As stated in section 4.4.4, development activities located on Critical Area lands designated FED are not directly regulated through the Critical Area Program but through the CZM Act.

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[dnr.maryland.gov/criticalarea/](http://dnr.maryland.gov/criticalarea/) – TTY users call via the Maryland Relay Service

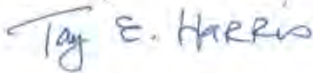


Ms. Williamson  
CBC NEPA DEIS Tier I Study  
April 13, 2021  
Page 2

5. In section 4.4.4., the Critical Area Buffer and its potential for expansion was discussed. In addition to the Critical Area 100-foot Buffer, the Critical Area program protects the following Habitat Protection Areas (HPAs): nontidal wetlands, threatened and endangered species habitat, species in need of conservation, anadromous spawning waters, and designated and regulated state and local plant and wildlife habitats. These HPAs are protected in cooperation with State and local agencies and are discussed in other sections of the CBC DEIS Tier I Study. This office recommends adding a sentence to section 4.4.4 disclosing the protection of these HPAs through partnerships with local and state agencies under the Critical Area program.
6. As stated in subsection 4.4.4 Conclusions, special attention must be paid to areas with steep slopes and highly erodible soils as these areas will be subject to Critical Area buffer expansion. This office recommends adding "adjacent non-tidal wetlands and hydric soils" to the areas subject to expansion.

Again, thank you for the opportunity to provide comments regarding the CBC DEIS Tier I Study. Attached is a Word document with suggested edits to section 4.4.4 as per the comments provided above. If you have any questions, please do not hesitate to contact me at 410.260.3481 or [tay.harris@maryland.gov](mailto:tay.harris@maryland.gov).

Sincerely,



Tay E. Harris  
Natural Resources Planner

cc: Nick Kelly, Critical Area Commission  
Kathryn Durant, Critical Area Commission

Attachment

File: CBC NEPA DEIS Tier I

#### 4.4.4.2 Corridor 7

Corridor 7 contains approximately 9,810 acres of land that falls within the limits of the Critical Area. The majority is classified as RCA but the corridor also contains relatively high levels of both LDA and IDA (Figure 4-10). Within the western extent, the Critical Area is primarily associated with the Severn River and the western shoreline of the Bay. A large portion of the western extent of Corridor 7, primarily along the northern corridor border, is located outside the limits of the Critical Area. ~~The US Naval Academy is located A large are of CL is mapped within the western portion of Corridor 7,~~ just north of Annapolis, MD. Impacts to ~~the Naval Academy CL~~ are administered under the Coastal Zone Management Act ~~not the Critical Area Program~~. The majority of the section of Corridor 7 that spans Kent Island is located within the limits of the Critical Area and due to the high level of existing development, the majority of IDA identified within Corridor 7 occurs on Kent Island. The eastern extent of the corridor intersects with the Critical Area associated with the Wye River and the south bank of the Chester River.

#### 4.4.4.3 Corridor 8

Corridor 8 contains approximately 8,120 acres of land that falls within the limits of the Critical Area (Figure 4-10). The western extent of Corridor 8 contain relatively little Critical Area with the exception of where the corridor spans the western shore of the Bay. A small area of IDA is also located within the western portion of the corridor, just south of MD 214. The majority of mapped Critical Area associated with Corridor 8 is located within the eastern portion of the Corridor, along the Eastern Shore. RCA constitutes the majority of Critical Area within Corridor 8. Lesser concentrations of LDA were also mapped with the majority occurring within the western portion of the corridor along the Bay.

#### 4.4.4.4 Conclusions

According to the GIS mapping sources, the highest total amount of land in the Critical Area within the CARA is within the limits of Corridor 7. Due to the nature of the proposed project, Critical Area impacts would not be completely avoidable for a new crossing within any of the CARA. Coordination with the CAC Staff and local jurisdictions would be required to evaluate potential impacts and associated mitigation should a corridor alternative be carried forward for further evaluation. During the planning process, special attention must be paid to ~~adjacent non-tidal wetlands and~~ areas with steep slopes, ~~hydric~~ and highly erodible soils as these areas will be subject to Critical Area buffer expansion. The Maryland Assembly enacted the Critical Area Act (CAA) in 1984 to address the increasing pressure placed on the Bay associated with land use and population growth. The CAA allows state and local governments to work together to address land development impacts on aquatic habitats and resources by developing specific local programs that would minimize adverse impacts to water quality caused by pollutants in runoff, conserve fish, wildlife and plant habitat within the critical area, and establish land use policies which would accommodate growth. For any selected corridor alternative, the majority of mapped Critical Area occurs in areas identified as RCA. RCAs consist primarily of natural areas or areas where resource utilization activities are taking place. Because RCAs make up most of the Critical Area and provide the greatest opportunity for meeting the goals of the Critical Area Program, the land use regulations are the most restrictive.



p. 141 of the Draft DEIS I

#### 4.4.4 Chesapeake Bay Critical Area

The Chesapeake Bay Critical Area encompasses land that is within 1,000 feet of the mean high tide line of the bay and adjacent streams and rivers. Within the Critical Area, three land classifications have been designated: Intensely Developed Areas (IDAs), Limited Development Areas (LDAs), and Resource Conservation Areas (RCAs). Intensely Developed Areas comprise of concentrated development and little natural habitat; LDAs comprise of low density to medium or high-density development and natural habitat; and RCAs comprise predominantly of natural habitat with limited low-density development. Each of these areas has specific regulations that dictate future development while accounting for the current surrounding land use and land cover. The Critical Area Law and regulations also include also has two additional areas identified as Corporate Land (CL) and a Federal Land (FED) classification. Development on federal lands must comply with the Coastal Zone Management Act (CZMA), as well as all state and local regulations, which includes the Critical Area Law and regulations. ~~These designations are for lands that are corporately owned or owned by the federal government and are not classified as RCA, LDA, or IDA because activities on these lands are not directly regulated through the state's Critical Area Program but are regulated through the Coastal Zone Management Act.~~ Additionally, in IDAs, LDAs and RCAs, Habitat Protection Areas (HPAs) are identified for the purposes of avoidance and protection, and in certain circumstances, to minimize and offset impacts. The most significant HPA in the Critical Area Commission (CAC) also regulates is the a Critical Area 100-foot Buffer, which consists of the first 100-feet landward of tidal waters, tidal wetlands, or tributary streams. For further protection, the 100-foot buffer is expanded to include steep slopes, adjacent non-tidal wetlands, ~~and~~ hydric or highly erodible soils. Other HPAs include non-tidal wetlands, threatened and endangered species habitat, species in need of conservation, anadromous spawning waters, and designated and regulated state and local plant and wildlife habitats. These HPAs are protected in cooperation with State and local agencies and are discussed in other sections of the DIES. Figure 4-10 provides a graphic depiction of the location and distribution of Critical Area within the limits of the three study area corridors. This data was obtained from the Maryland iMap GIS data portal. Table 4-26 below provides a breakdown of total area, in acres, of IDA, LDA, and RCA located within the limits of the three study area corridors. Appendix A includes detailed maps of the Critical Area within each corridor.

##### 4.4.4.1 Corridor 6

Corridor 6 contains approximately 4,910 acres of land area that falls within the limits of the Critical Area, the overall majority of which is classified as RCA (Figure 4-10). Within the western extent, the Critical Area is generally limited to the northern and southern edges of the corridor until it spans the Western Shore area of the Bay. The majority of Critical Area within the western extent of Corridor 6 is classified as RCA with lesser concentrations of LDA. One small roughly 50-acre section of IDA was identified within the western portion of the Corridor 6 and was associated with the Long Point neighborhood along Sillery Bay. The eastern portion of Corridor 6 intersects Critical Area along the entire width at the eastern shoreline of the Bay and along both banks of the Chester River. Mapped Critical Area along the Eastern Shore is primarily RCA with lesser concentrations of LDA.

### Critical Area Commission Response

The Bay Crossing Study Team appreciates the input provided by the Critical Area Commission (CAC) on the Tier 1 DEIS. MDTA will continue to coordinate with CAC throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

MDTA has opted to apply procedures approved by the Council on Environmental Quality to develop a streamlined Tier 1 FEIS/ROD for the Bay Crossing Study. To achieve this, MDTA prepared an errata of changes to the DEIS rather than reproducing the full text of the DEIS as part of the FEIS. MDTA is therefore applying updates to the DEIS in the FEIS/ROD only for substantial factual revisions (**Chapter 2**) or supplementary analysis (**Chapter 3**) relevant to the comparison of Corridor Alternatives and identification of the PCA.

The Bay Crossing Study Team offers the following responses to the specific comments, as numbered in the CAC's comment letter.

1. A potential future Tier 2 NEPA study would include updating all data sets, including the Critical Area mapping, to reflect the most recent available data at the time a Tier 2 study is conducted.
2. The US Naval Academy campus is located just outside of the limits of Corridor 7; however, MDTA will consider compliance with the Coastal Zone Management Act (CZM) if any potential impacts to the US Naval Academy Campus are identified in a potential future Tier 2 study.
3. A potential future Tier 2 study would include more detailed analysis based on alternative alignments within the Tier 1 selected corridor. MDTA would coordinate with CAC to determine specific designations for Corporate Lands (CL) within any impacted areas in Corridor 7 based on Tier 2 alternatives.
4. MDTA will continue to evaluate both Critical Area lands and CZM lands throughout a potential future Tier 2 study.
5. Section 4.4.4. has been revised to reflect this suggested edit, as noted in **Chapter 2**.
6. Section 4.4.4.4. has been revised to reflect this suggested edit, as noted in **Chapter 2**.

## Maryland Department of the Environment Comment



### Maryland Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Crumbles, Secretary  
Horacio Tablada, Deputy Secretary

May 4, 2021

Ms. Heather Lowe, Project Manager  
Maryland Transportation Authority  
2310 Broening Highway  
Baltimore, MD 21224

RE: Chesapeake Bay Crossing – Tier 1 National Environmental Policy Act Draft Environmental Impact Statement (DEIS)

Dear Ms. Lowe:

The Maryland Department of the Environment, Wetlands and Waterways Program (Program) has reviewed the Tier 1 National Environmental Policy Act Draft Environmental Impact Statement (DEIS) dated February 2021 that analyzed corridors 6, 7 and 8 to determine the MDTA – Recommended Preferred Corridor Alternative. The Program acknowledges and is pleased that previous comments have been incorporated in the most recent DEIS.

The Program would like to clarify Chapter 4 Section 4.4.2 specifically page 4-45 and the statement “Tidal wetlands are administered by MDE via COMAR Title 26.24.” The Board of Public Works (BPW) authorizes tidal Wetlands Licenses. BPW has delegated to the Program in COMAR 23.02.04.05 certain licensing/permitting decisions and retained others. The BPW allows the Program to directly issue a license for projects that are delegated under COMAR Title 26.24. All other projects, the Program makes a recommendation to BPW as to whether a license should be issued and BPW’s Wetlands Administrator makes his own independent review and then submits a recommendation to BPW. The Board votes to grant or deny the license application at one of its open meetings.

Section 4.4.2 should be updated to include water quality certification (WQC) requirements. A section 401 certification is required in Maryland for any federal license or permit that authorizes an activity that may result in a discharge for example U.S. Army Corps of Engineers Permits (Nationwide Permits, Regional General Permits, State Programmatic General Permits, Standard Individual Permits), FERC, USCG, etc. Under section 401 a State’s WQC conditions must be incorporated into the federal permit or license.

The project will require a *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* (Application) to be submitted. As part of the alternative analysis included in the Application, complete impact information for the preferred alternative and each alternative will need to be provided. This includes quantifying all permanent and temporary impacts to nontidal wetlands, the nontidal wetland buffer (including the expanded buffer, if applicable), tidal wetlands, streams and the 100-year floodplain.



Chesapeake Bay Crossing – Tier 1 National Environmental Policy Act (DEIS)

Page 2

Permanent impacts to nontidal and tidal wetlands will need to be mitigated. Development of an acceptable mitigation plan will be very important. The Maryland Transportation Authority is highly encouraged to contact MDE's Mitigation and Technical Assistance Section early in the process for nontidal wetlands mitigation and the Tidal Wetlands Division for tidal wetlands mitigation.

Again, the Program appreciates the incorporation of previous comments into the DEIS. If you need any further information or assistance, please do not hesitate to contact me at (443) 286 – 0524 or [tammy.roberson@maryland.gov](mailto:tammy.roberson@maryland.gov).

Sincerely,



Tammy K. Roberson  
Division Chief  
MDE/WSA/Wetlands and Waterways Program/Tidal Wetlands Division

cc: Sarah Williams, Coastal Resources, Inc.  
Ryan Synder, RKK

## Maryland Department of the Environment Response

The Bay Crossing Study Team appreciates the input provided by the Maryland Department of the Environment (MDE) on the Tier 1 DEIS. MDTA will continue to coordinate with MDE throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study. In response to specific comments contained in the MDE's comment letter, the Bay Crossing Study Team offers the following response.

- The Study Team has revised **Section 4.4.2** to reflect additional detail and clarification on how the Maryland Tidal Wetlands Act is administered and the role of both MDE and the Board of Public Works in this process, as noted in **Chapter 2** of the FEIS.
- The Study Team added a new paragraph to note the Water Quality Certification (WQC) requirements, as noted in **Chapter 2** of the FEIS.
- MDTA acknowledges the requirements of a *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* and anticipates that a potential future Tier 2 study would include additional analysis based on alternative alignments within a Tier 1 selected corridor. At that time, impacts would be quantified for the various alternatives with increasing detail as the project moved through the Tier 2 NEPA process to permitting if a Tier 2 build alternative is selected.
- MDTA appreciates the recommendation regarding mitigation for impacts to Tidal and Nontidal wetlands and recommendation that MDTA consult with MDE's Mitigation and Technical Assistance Section and the Tidal Wetland Division early in the process of developing mitigation options. MDTA will coordinate early and often with MDE's mitigation specialists regarding development of an acceptable mitigation plan if a Tier 2 study is initiated.

## Maryland Department of Planning Comment

Larry Hogan, Governor  
Boyd Rutherford, Lt. Governor



Robert S. McCord, Secretary  
Sandy Schrader, Deputy Secretary

### **Maryland** **DEPARTMENT OF PLANNING**

May 5, 2021

Heather Lowe  
Project Manager  
Division of Planning & Program Development  
Maryland Transportation Authority  
2310 Broening Highway  
Baltimore, MD 21224

**Re: The Tier 1 Draft Environmental Impact Statement for the Bay Crossing Study**

Dear Ms. Lowe:

The Maryland Department of Planning (Planning) has reviewed the Tier 1 Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study (the BCS). Our review focuses on transportation and land use planning issues, including consideration of multimodal transportation facilities or services, direct and indirect effects on land use and growth, communities including environmental justice, local and regional economic resources, and climate change, as well as general environmental resource protection issues.

As a participating agency, Planning provided the Maryland Transportation Authority (MDTA) with input and comments at milestone stages of the BCS as well as on the Draft Socioeconomic and Indirect & Cumulative Effects (ICE) Technical Reports. We appreciate the coordination opportunity with MDTA to assist with the development of the ICE analysis methodology and review the technical report. Planning is pleased to see MDTA addressed our comments in the DEIS and related technical reports.

Staff discussed the review and comments on the DEIS with Planning's management team. We offer the following comments.

Based on the review of the DEIS, Planning notes that among the Corridor Alternatives Retained for Analysis (CARA) (i.e., No-Build Alternative, Corridor Alternatives 6, 7, and 8.), Corridor 7 would best meet the purpose and needs of the BCS. As compared to Corridor 6 and 8, Corridor 7 would likely have lower overall environmental impacts including lower adverse ICE impacts on land uses and associated socioeconomic and natural resources.

As stated above, Corridor 7 would likely have lower ICE impacts as compared to Corridors 6 and 8; however, Corridor 7 with a new or expanded bay crossing and substantial capacity improvements on existing connecting highways would likely have some impacts on land uses, as compared to the No-Build Alternative, and would inevitably have some induced growth and land use effects. MDTA identified Corridor 7 as the MDTA-Recommended Preferred Corridor Alternative (page 5-1).

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## 2 | Page

Heather Lowe, MDTA

Re: The Tier 1 DEIS for the Bay Crossing Study

If the Tier 1 BCS concludes with the selection of Corridor 7 for a future Tier 2 NEPA study, Planning would like to continue working with MDTA to help address potential induced growth and land use impacts. The state and affected local jurisdictions should make concerted efforts to discourage induced development outside Priority Funding Areas through sustainable growth practices if a build alternative is selected in the future.

In addition, Planning strongly supports the recommendation that a future Tier 2 Bay Crossing NEPA study would further evaluate TSM/TDM measures, the Bus Rapid Transit (BRT), and Ferry Service as part of the preferred corridor alternative recommended by this Tier 1 NEPA study.

The following are specific comments arranged by the DEIS documentation order:

- Executive Summary
  - Planning noted MDTA will continue to track travel patterns affected by the COVID-19 pandemic (page ES-1). Considering the potential benefits of telework/telecommute on traffic congestion relief and addressing climate change mitigation goals, MDOT, MDE, MPOs, and lawmakers in Maryland are promoting teleworking or telecommuting. In addition, companies and businesses may also permanently expand the use of telework/telecommute based on their COVID-19 pandemic period experiences. It is likely that expanded telework/telecommute during COVID-19 would partially continue after COVID-19. Planning suggests the project team consider conducting a scenario sensitivity analysis of the likely effects an expanded and sustained level of telework/telecommute participation will have on travel demand on the Bay Bridge.
- Chapter 2 – Purpose and Need
  - Page 2-11: It will be helpful for readers to explain what a PTI of 1.5 or 2.5 means. For example, PTI 1.5 means a traveler would take 50 percent more time for a trip with a 95 percent probability of arriving on time as compared to a free flow traffic condition.
- Chapter 3 - Alternatives Considered
  - Page 3-1: The BCS Alternatives Report does not include Appendix A (Chesapeake Bay Ferry Service Evaluation) and Appendix B (Transit Service Evaluation). These appendices should be included.
  - Page 3-4 (Re: Tie-In Locations): The DEIS should clarify that the logical termini on both sides of the Bay for a Tier 2 BCS would be reevaluated to factor in potential increased traffic impacts on approach highways. It is unclear if traffic impact is a factor for determine the current Tier 1 study's roadway tie-in locations. Nevertheless, a revaluation of the project termini should be conducted for a Tier 2 study.
- Chapter 4 – Affected Environmental and Environmental Consequences
  - Page 4-2 (Re: 4.1.2 Communities and Land Use) and page 23 of the BCS Socioeconomic Technical Report): Planning suggests that the DEIS, including the technical report, include the information on relevant local comprehensive plans and a general evaluation of how Corridor 6, 7, or 8 may or may not be consistent with related local plans. For instance, the current Kent County Comprehensive Plan opposes “any proposal for constructing another bridge crossing of the Chesapeake Bay north of the existing Bay Bridge spans with a terminus in Kent County”(page 101). Thus, Corridor 6 may or may not be consistent with the plan.



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Heather Lowe, MDTA

Re: The Tier 1 DEIS for the Bay Crossing Study

- Page 4-5: In the summary paragraph for "4.1.2.1 Community Facilities," the DEIS should point out that Corridor 7 would likely have greater impacts on community facilities.
- Page 4-7 and 4-8 (Re: 4.1.2.4 Community Cohesion) and page 4-126 (Re: 4.9.2.2 Corridor 7): In these two sections, the DEIS should recognize the existing US 301/US 50 is a barrier for communities on both sides of the highway and there is very limited community cohesion. With the expansion of US 301/US 50, Corridor 7 would likely further reduce the ability for multimodal connections between the north and south sides of US 301/US 50; thus, Corridor 7 could further adversely affect community cohesion among communities on both sides of US 301 /US 50. Furthermore, consideration should be given to address the problem experienced by Queen Anne's County's volunteer fire and EMS members accessing their stations and equipment in times of peak traffic, especially when GPS-induced traffic diversions from the preferred route take place that have a negative impact on response times.
- Page 4-84 (Re: 4.4.9 Sea Level Rise): Please note that recently the MCCC calls for "Maryland to adopt more ambitious Greenhouse Gas emissions reduction goals, requiring at least 50 percent reduction by 2030 (up from 40 percent by 2030) and achieving net-zero GHG emissions by 2045." MDTA may add this information in the DEIS.
- Page 4-96 (4.6.5 Greenhouse Gases): Planning encourages MDTA to conduct a quantitative GHG emissions analysis in a future Tier 2 NEPA in coordination with the MPO and MDOT.
- Chapter 5 – MDTA Recommended Preferred Corridor
  - MDTA may consider including the information in Chapter 5 indicating that TSM/TDM, BRT, and Ferry Service would be combined with Corridor 7, if Corridor 7 is selected at the end of the Tier 1 BCS and advanced to a Tier 2 study.

If you have any questions on our comments or wish to discuss these comments further, please contact me through email at [chuck.boyd@maryland.gov](mailto:chuck.boyd@maryland.gov) and Bihui Xu through email at [bihui.xu@maryland.gov](mailto:bihui.xu@maryland.gov).

Sincerely,



Charles W. Boyd, AICP  
Director, Planning Coordination  
Maryland Department of Planning

CC: Val Lazdins, Assistant Secretary for Planning Service, Planning  
Michael Bayer, Manager, Infrastructure & Development, Planning  
Bihui Xu, Lead Transportation Planner, Infrastructure & Development, Planning  
Scott Hansen, Transportation Planner, Infrastructure & Development, Planning  
Ken Choi, Manager, Geospatial & Data Analysis, Planning  
Joseph Griffiths, Manager, Local Assistance & Training, Planning  
Michelle Martin, Assistant Director, OCP, MDOT



## Maryland Department of Planning Response

The Bay Crossing Study Team appreciates the input provided by the Maryland Department of Planning (MDP) on the Tier 1 EIS. MDTA will continue to coordinate with MDP throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

The Bay Crossing Study Team appreciates the assistance that MDP has provided for the DEIS, particularly in development of the Indirect and Cumulative Effects (ICE) assessment. MDTA would continue to evaluate potential direct and indirect effects on land uses as a result of a new crossing in a potential future Tier 2 NEPA study. MDTA would continue to solicit data, input and expertise from MDP in developing a methodology and analysis for identifying potential induced growth effects in a Tier 2 study.

### Executive Summary

As discussed in **Chapter 3.1** of this FEIS, traffic volumes at the Bay Bridge dropped during the initial months of the pandemic in the Spring of 2020 and have been gradually increasing since that time. If a Tier 2 NEPA Study is performed, the continuing impacts of the pandemic and recovery would be assessed in that Study. Updated traffic volume data would be collected and analyzed to establish a then-current baseline, and that baseline would be used in the calibration of an updated travel demand model which would be used to forecast future traffic volumes. As with this Tier 1 EIS, the updated travel demand model used in Tier 2 NEPA would be based upon the travel demand models in use by regional and State planning agencies at that time. Those regional and State models would use updated forecasts of population and employment. It is anticipated that those models would either include or would be adapted as part of the Tier 2 NEPA Study to incorporate long-term changes in travel behavior, to the extent that those long-term changes are understood at that time.

### Chapter 2 - Purpose and Need

DEIS Section 2.2.2 provides explanation of Planning Time Index (PTI). As noted on page 2-11 of the DEIS, “The PTI represents the 95<sup>th</sup> percentile travel time for a section of the transportation network and is considered the total time travelers should allow for trips to assure on-time arrival at destinations. Statewide PTI are categorized as Reliable (PTI less than 1.5), Moderately Unreliable (PTI between 1.5 and 2.5) and Highly to Extremely Unreliable (PTI above 2.5).”

### Chapter 3 - Alternatives Considered

The appendices to the BCS Alternatives Report are available on the project website at <https://baycrossingstudy.com/nepa-process/alternatives-screening>.

Clarification regarding corridor tie-in locations is provided on Page 1-6 of the DEIS. “The length and exact limits of the two-mile wide corridor alternatives analyzed in Tier 1 will not be binding for a project-level Tier 2 analysis, depending on the corridor alternative selected, the proposed project engineering design, and the nature of the key resources identified within that corridor. The corridor alternative decision in Tier 1 will assist with the future identification of logical termini for a potential new crossing by establishing potential connections to the existing transportation network. The Tier 2 analysis will focus on alternatives within a selected corridor to the maximum extent practicable. It is possible that changes to the termini

of a potential new crossing or alignment shifts to avoid and minimize impacts could require minor adjustments to the definition of a corridor selected following the Tier 1 analysis.”

#### Chapter 4 - Affected Environment and Environmental Consequences

Information on the consistency of the Corridor Alternatives with local comprehensive plans is included in the Indirect and Cumulative Effects (ICE) Technical Report, Section 4.1.1.2.

The potential for greater impacts on community facilities from Corridor 7 is noted in DEIS Section 4.9.2.

Discussion of the effects of the existing US 50/301 facility as a barrier to community cohesion, along with potential cumulative effects of new capacity in Corridor 7, are included in the ICE Technical Report, Section 6.4.1.

Additional discussion of climate change, sea level rise and greenhouse gas emissions has been developed for this FEIS, and is included in **FEIS Section 3.2**. MDTA would determine during a potential future Tier 2 study whether quantitative analysis for greenhouse gas emissions is warranted and practicable.

#### Chapter 5 - MDTA Recommended Preferred Corridor

It is noted under **DEIS Section 3.3.1** that several of the MOA including TSM/TDM, Ferry Service, and BRT would continue to be evaluated in combination with a new crossing (and other MOA) in a potential future Tier 2 study.

Department of the Interior – National Park Service and US Fish and Wildlife Service  
Comment



United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
5 Post Office Square, Suite 18011  
Boston, Massachusetts 02109

May 6, 2021

9043.1  
ER 21/0087

Jeanette Mar  
Federal Highway Administration  
George H. Fallon Building  
31 Hopkins Plaza, Suite 1520  
Baltimore, Maryland 21201

**Subject: Tier 1 Draft Environmental Impact Statement**  
**Chesapeake Bay Crossing Study**  
**Maryland**

Dear Ms. Mar:

The U.S. Department of the Interior (Department) reviewed the Tier 1 Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study (Study) in Maryland. The Study intends to assess the potential environmental impacts of addressing congestion at the Chesapeake Bay Bridge, which could result in added capacity at the existing bridge or at a new location across the Chesapeake Bay. The following comments on this project are offered for your consideration.

**SECTION 4(F) EVALUATION COMMENTS**

The Department appreciates your efforts to coordinate with various agencies regarding this project and the development of the Section 4(f) Evaluation, and we encourage continued coordination with other agencies and tribes throughout the life of this project. The Department also understands that due to the large geographic scale of the Tier 1 DEIS that determining effects on Section 4(f) resources is not feasible at this time in the process. We understand that in the Tier 2 NEPA document, a project-level Section 4(f) evaluation will be completed, and so, the Department will provide comments on the Section 4(f) evaluation at that time.

In addition, the Department looks forward to working closely with the Federal Highway Administration (FHWA) in its Tier 2 NEPA analysis to avoid, minimize, or mitigate any impacts to Departmental resources. Comments submitted by the National Park Service (NPS) and the U.S. Fish and Wildlife Service (Service) follow.

## DEIS COMMENTS

### National Park Service

The NPS reviewed the Tier 1 DEIS and acknowledges this is the first step to narrow down potential areas to study further in the Tier 2 NEPA analysis. We note that the DEIS is a Tier 1 NEPA document that discusses 14 possible bridge corridors within the Bay and narrows the preferred corridor down to 3 corridors that FHWA will carry forward for a Tier 2 NEPA document to be published at a future time. NPS interests located within the Chesapeake Bay and its watershed for you to consider as you move into the Tier 2 NEPA analysis of the Study are presented below.

#### NPS Resources

The Captain John Smith Chesapeake National Historic Trail is the first water trail designated under the National Trails System Act [16 U.S.C. 1244(a)]. The trail route extends throughout the Chesapeake Bay including its major tributaries. Its purpose is to commemorate the exploratory voyages of Captain Smith on the Chesapeake Bay and its tributaries in 1607-1609; to share knowledge about the American Indian societies and cultures of the seventeenth century; and to interpret the natural history of the Bay (both historic and contemporary). In addition, the NPS administers the Star-Spangled Banner National Historic Trail, which traverses almost all of the Chesapeake Bay north of the Potomac River confluence to Havre de Grace, MD; while the Captain John Smith Chesapeake National Historic Trail route extends south all the way to the bay's confluence with the Atlantic Ocean. Both trails advance recreational experiences along their routes and Captain John Smith Chesapeake National Historic Trail seeks to conserve resources along the route reflective of the early 17th century. The Tier 2 analysis should evaluate the effects the project might have on these trail resources and experiences.

The Harriett Tubman Underground Railroad National Historical Park is located near Cambridge in Dorchester County, Maryland. The NPS provides the following description:

The national historical park boundary encompasses an approximately 25,000-acre mosaic of federal, state, and private lands in Dorchester County, Maryland. It includes large sections of land that are significant to Tubman's early years and evokes her life while enslaved as well as a conductor on the Underground Railroad... You won't see Harriet Tubman represented here in structures and statues; rather, she is memorialized in the land, water, and sky of the Eastern Shore where she was born and where she returned again and again to free others.<sup>1</sup>

Any direct and indirect impacts and effects on the National Historical Park and the heritage of Harriet Tubman's landscapes should be identified and assessed during the Tier 2 NEPA document development.

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<sup>1</sup> Harriet Tubman Underground Railroad, [https://www.nps.gov/hatu/learn/upload/HATU-Unigrid\\_2-26-13.pdf](https://www.nps.gov/hatu/learn/upload/HATU-Unigrid_2-26-13.pdf)



The NPS also manages the Chesapeake Bay Gateways and Watertrails Network as directed by congress in the *Chesapeake Bay Initiatives Act of 1998*.<sup>2</sup> Chesapeake Gateways is a network of over 300 places, and their partners, providing opportunities to enjoy, learn about and help conserve the Chesapeake Bay and its watershed. Included in the network are assorted natural, cultural, historical and recreational sites, trails, museums, parks, refuges and interpretive and orientation facilities. These places, and the network as a whole, serve as entry points, stewardship leads, and the key guides for experiencing the Chesapeake watershed. There are several Chesapeake Gateways sites within the three preferred corridors. Holly Beach Farm, an important bayfront property and one of the first sites protected for environmental/cultural conservation and public access associated the Chesapeake Gateways program, is located in Anne Arundel County adjacent to US 50/301 and just south of the existing Chesapeake Bay bridge crossing. The NPS and its partners request a review of any impacts and effects on Holly Beach Farm and the many other Chesapeake Gateway sites.

The National Register of Historic Places is administered by the NPS and since its inception in 1966, more than 95,000 properties that Americans believe are worthy of preservation have been listed in the National Register. The NPS notes that there are dozens of individually listed properties as well as several National Historic Districts within the preferred corridors. Any direct and indirect impacts and effects to these listings should be evaluated during the Tier 2 NEPA document development.

In addition, the NPS administers more than fifty units of the national park system within the Chesapeake Bay watershed. As such, the NPS is a long-standing partner in the Chesapeake Bay Program (CBP) and plays a role in coordinating collaborative action toward advancing *Executive Order 13508*<sup>3</sup> and several goals in the *2014 Chesapeake Bay Watershed Agreement*,<sup>4</sup> including land conservation and public access. The NPS leads collaborative efforts among regional partners to identify and prioritize public access and land conservation objectives to support the watershed restoration partnership. Coordination and consultation with NPS and its partners will be essential in identifying and evaluating the effects a proposed new crossing might have on land conservation priorities and other watershed restoration objectives under the agreement.

#### Potential Impacts to NPS Resources

Since there are no specific, detailed crossing designs and alignments discussed at this time, we cannot offer any specific comments on potential impacts to NPS resources. As FHWA moves into the Tier 2 NEPA analysis for the Study, which will include specific alignments of a new crossing, the NPS will be able offer specific input in the identification and evaluation of impacts to NPS resources and interests at that time. The NPS acknowledges that the avoidance, minimization, and mitigation strategies for natural and cultural resource impacts will be discussed in detail in the Tier 2 NEPA analysis, and we look forward to participating in that process as it pertains to NPS resources and interests. In addition, we also look forward to further

<sup>2</sup> <https://www.govinfo.gov/content/pkg/COMPS-11554/pdf/COMPS-11554.pdf>

<sup>3</sup> <https://www.federalregister.gov/documents/2010/05/11/2010-11143/executive-order-13508-chesapeake-bay-protection-and-restoration-section-203-final-coordinated>

<sup>4</sup> [https://www.chesapeakebay.net/documents/FINAL\\_Ches\\_Bay\\_Watershed\\_Agreement\\_withsignatures-HIres.pdf](https://www.chesapeakebay.net/documents/FINAL_Ches_Bay_Watershed_Agreement_withsignatures-HIres.pdf)



details on the evaluation of indirect impacts from the proposed road corridor itself as well as cumulative impacts associated with subsequent development within the proposed corridor.

The NPS further acknowledges that a preliminary environmental justice assessment was completed in the Tier 1 NEPA document, and we understand that a more detailed analysis will be required to determine whether disproportionately high and adverse impacts on low income and/or minority populations could result from the proposed project. We encourage FHWA to identify and address potential environmental justice impacts associated with the three preferred corridors in the Tier 2 NEPA document. The NPS has specific Environmental Justice responsibilities under our role with the CBP. The NPS Chesapeake Office coordinates and leads the CBP's Diversity Workgroup which recently issued a Diversity Equity Inclusion & Justice (DEIJ) strategy adopted by the CBP Executive Council. The Executive Council also signed a DEIJ statement that includes the following passage: "Just as natural ecosystems depend on biodiversity to thrive, the long-term success of the Chesapeake Bay restoration effort depends on the equitable, just and inclusive engagement of all communities living throughout the watershed".

#### Issues of Concern

It was stated in the DEIS that the installation of all electronic tolling in the Spring of 2020 would be discussed further in the Tier 2 NEPA analysis and possibly change the results of the congestion models, travel times, or the need for a new crossing. Another option that was not discussed in the DEIS was a discussion of removing tolls altogether and how that would factor into congestion, travel times, or the need for a new crossing. A further clarification of the need of a new crossing and how it relates to the topic of tolling should be included in the Tier 2 NEPA analysis.

In addition, public access is an important issue for the NPS and we recommend that the NEPA Tier 2 document address any impacts or improvements to equitable public access to the various public lands and other open space within the area of assessment. Furthermore, there is no discussion in the document on what happens to the existing Bay Bridge after a potential new crossing is completed and we hope this question is addressed as you move into the Tier 2 NEPA analysis.

#### **U.S. Fish and Wildlife Service**

The Service has reviewed the DEIS and Natural Resources Technical Report (NRTR) and is providing the following comments in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Coordination Act (48 Stat. 401; 16 U.S.C. 661 *et seq.*), the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and the Coastal Barrier Resources Act of 1982 (98 Stat. 1653; 16 U.S.C. 3501 *et seq.*).

#### Section 7 Endangered Species Act (ESA)

Two federally threatened species, one candidate species, and two petitioned species may occur within Corridor Alternative Retained for Analysis (CARA) 6, 7, and 8.

The federally threatened northern long-eared bat (NLEB; *Myotis septentrionalis*) may be present within CARA 6, 7, and 8. NLEB is a temperate, insectivorous migratory bat that hibernates in mines and caves during the winter and spends summers in wooded areas. FHWA should coordinate with the Service to determine if the project is consistent with the *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat<sup>5</sup> and Activities Excepted from Take Prohibitions<sup>6</sup>* and can be used to fulfill your Section 7(a)(2) consultation requirements for the species. The Service recommends acoustic, mist netting, and radio-tracking surveys for NLEB be conducted and if the species is present implementing a time-of-year restriction for tree clearing to avoid the pup season (May 1 through July 31) to fulfill voluntary Section 7(a)(1) requirements to further conserve NLEB.

The monarch butterfly (*Danaus plexippus*) may be present within CARA 6, 7, and 8. The Service completed a species status assessment and designated the monarch butterfly as a candidate species in December 2020. Candidate species warrant Endangered Species Act (ESA) listing but are precluded from listing by other higher priority listing activities. Candidate species have no statutory protections under the ESA, but a species status review is required each year until the Service undertakes a proposal to list or makes a not-warranted finding.

The spotted turtle (*Clemmys guttata*) may be present within CARA 6, 7, and 8. The spotted turtle has been petitioned for Federal listing under the ESA and the Service is conducting a species status assessment and anticipates making a listing decision by September 2023. Spotted turtles favor shallow water, vegetated wetlands, but can also be found in upland areas and forest during their active season.

The saltmarsh sparrow (*Ammodramus caudacuta*) may be present within CARA 7. The saltmarsh sparrow is a medium-sized sparrow identified by its streaky brown and gray plumage and distinctive face with gray cheeks outlined in pale orange. The saltmarsh sparrow has been petitioned for Federal listing under the ESA. The Service is conducting a species status assessment and anticipates a listing determination by September 2023.

The federally threatened eastern black rail (*Laterallus jamaicensis jamaicensis*) may be present within CARA 6, 7, and 8. The eastern black rail is a small, highly secretive marsh bird that primarily inhabits the high marsh areas of coastal wetlands in Maryland. Males and females are similar in size and adults are generally pale to blackish gray, with a small blackish bill and bright red eyes. The Service is conducting yearly eastern black rail surveys. Please update the species list for this project in the Information for Planning and Consultation (IPaC) application every 90 days to determine if the eastern black rail is within CARA 6, 7, or 8.

The species list and distribution of Federal endangered and threatened species are updated as new information becomes available. Therefore, the Service recommends FHWA obtain an updated project species list using the IPaC application every 90 days to verify its accuracy.

<sup>5</sup> [https://www.fws.gov/midwest/endangered/section7/batbo/16\\_NLEBRange\\_Final4d01052016.pdf](https://www.fws.gov/midwest/endangered/section7/batbo/16_NLEBRange_Final4d01052016.pdf)

<sup>6</sup> <https://www.fws.gov/midwest/endangered/mammals/nleb/KeyFinal4dNLEBFedProjects.html>

DEIS and NRTR

DEIS pages 3 through 10. Coastal Barrier Resources Act (CBRA) protected lands is listed as a corridor alternative screening factor but does not appear to be used as a screening factor in the DEIS or the NRTR. The CBRA limits Federal expenditures and financial assistance which have the effect of encouraging development on designated coastal barriers, and CBRA designated lands are present within the study area, including at Eastern Neck Island, Kent Island, and Eastern Bay.

NRTR page 13. The Lacey Act is incorrectly spelled as the Lacy Act.

NRTR page 15. The IPaC application also identifies presence of Service lands including National Wildlife Refuges within a specific study area.

NRTR. The Bald and Golden Eagle Protection Act is administered by the Service. Please contact the Service's Regional Migratory Bird Permit Office at (413) 253-8643 or [permitsR5MB@fws.gov](mailto:permitsR5MB@fws.gov) if an incidental take permit may be required.

NRTR page 18. The NRTR states the Service prohibit submerged aquatic vegetation (SAV) disturbance between March and June. SAV provide important habitat for many Service trust resources, and we may recommend best management practices including time-of-year restrictions to protect SAV, but the Service does not prohibit SAV disturbance.

NRTR page 60. American eels (*Anguilla rostrata*) live in fresh and estuarine waters and migrate into marine waters to spawn and are a species of management concern. Therefore, American eels should be included in the list of diadromous species occurring in the Chesapeake Bay.

Thank you for your attention to our concerns for the Chesapeake Bay and the Department of Interior resources located within the bay and its watershed. The Department looks forward to continuing to participate in the NEPA process. For further information on NPS comments, please contact Mark Eberle, National Park Service, at 215-597-1258 or [mark\\_eberle@nps.gov](mailto:mark_eberle@nps.gov). For questions regarding Service comments, please contact Ray Li, U.S. Fish & Wildlife Service, at [ray\\_li@fws.gov](mailto:ray_li@fws.gov). Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,

ANDREW  
RADDANT

Digitally signed by  
ANDREW RADDANT  
Date: 2021.05.07  
11:51:09 -04'00'

Andrew L. Raddant  
Regional Environmental Officer



## Department of the Interior – National Park Service and US Fish and Wildlife Service Response

The Bay Crossing Study Team appreciates the input provided by the Department of the Interior (DOI) on the Tier 1 DEIS. MDTA will continue to coordinate with NPS and USFWS throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

DOI noted the project will require Section 4(f) evaluation in a future Tier 2 NEPA study. MDTA will coordinate with DOI on the Section 4(f) evaluation if a Tier 2 study is initiated.

### National Park Service (NPS) Resources

Regarding the identified resources within the three Corridor Alternatives Retained for Analysis (CARA), the Bay Crossing Study Team would like to clarify that this Tier 1 FEIS identifies Corridor 7 as the Preferred Corridor Alternative (PCA) that would be carried forward for a future Tier 2 NEPA study. The remaining two corridors (6 and 8) included in the CARA would not be included in a future Tier 2 NEPA.

MDTA would coordinate with NPS when evaluating any potential effects on NPS resources during a potential future Tier 2 NEPA study. Direct impacts are not anticipated to The Harriet Tubman Underground Railroad National Historical Park, as it is not located within the PCA.

Coordination and consultation with NPS and its partners are recommended to identify and evaluate the effects a proposed new crossing might have on land conservation priorities and other watershed restoration objectives under the *2014 Chesapeake Bay Watershed Agreement*. MDTA would coordinate with NPS when evaluating potential effects on the goals of the agreement during a future Tier 2 NEPA study.

MDTA would evaluate environmental justice impacts only within the PCA (Corridor 7) in any future Tier 2 NEPA study and will coordinate with NPS regarding potential effects to the goals of the Chesapeake Bay Program's Diversity Equity Inclusion & Justice strategy during any future Tier 2 NEPA study. Supplementary environmental justice analysis is included in **Section 3.3** of this FEIS.

Supplementary traffic analysis discussion related to effects of the COVID-19 pandemic and implementation of all-electronic tolling (AET) at the existing Bay Bridge is included in **Section 3.1** of this FEIS. In addition, NPS requests MDTA include a discussion on what happens to the existing Bay Bridge after a new crossing is completed in the future Tier 2 NEPA study. MDTA would update existing conditions and projections for a potential future Tier 2 traffic analysis. A Tier 2 study would also include discussion of the existing Bay Bridge's future if a new crossing is completed.

### U.S. Fish and Wildlife Service (USFWS)

USFWS indicated that two federally threatened species, one candidate species, and two petitioned species may occur within the CARA. USFWS recommends FHWA update the species list for the Tier 1 and any future Tier 2 NEPA study in the Information for Planning and Consultation (IPaC) to verify its accuracy. MDTA would obtain an updated species list through the IPaC application for any future Tier 2 NEPA study.



USFWS noted Coastal Barrier Resources Act (CBRA) protected lands. CBRA-protected lands were evaluated within each of the Corridor Alternatives as part of the screening documented in the BCS Alternatives Report. MDTA acknowledges that CBRA limit Federal expenditures and financial assistance and will coordinate with USFWS regarding CBRA lands in any future Tier 2 NEPA study.

Although MDTA does not plan to update technical reports included in the Tier 1 DEIS, changes related to the Natural Resources Technical Report would be reflected in any technical report supporting a future Tier 2 study. USFWS noted several clarifications to the Natural Resources Technical Report. First, USFWS noted that the Lacey Act is incorrectly spelled as the “Lacy Act.” Second, USFWS noted the IPaC application also identifies presence of Service lands including National Wildlife Refuges within a specific study area. Third, USFWS noted the NRTR states the Service prohibits submerged aquatic vegetation (SAV) disturbance between March and June. The Service may recommend best management practices including time-of- year restrictions to protect SAV, but the Service does not prohibit SAV disturbance. Fourth, USFWS stated American eels should be included in the list of diadromous species occurring in the Chesapeake Bay found in the NRTR.

MDTA will coordinate with USFWS regarding the potential need for an incidental take permit during the Tier 2 NEPA Study and work with the Regional Migratory Bird Permit Office if it is determined that impacts to migratory birds would make a permit necessary.

## Maryland Department of Natural Resources Comment



*Larry Hogan, Governor*  
*Boyd Rutherford, Lt. Governor*  
*Jeannie Haddaway-Riccio, Secretary*  
*Allan Fisher, Acting Deputy Secretary*

May 10, 2021

Heather Lowe, Project Manager  
Maryland Transportation Authority  
Division of Planning and Program Development  
2310 Broening Highway  
Baltimore MD 21224

Re: DNR comment to Bay Crossing Study Draft Environmental Impact Statement, dated February 2021

Dear Ms. Lowe,

DNR has received and reviewed the Draft Bay Crossing Study EIS, and is sending this email to provide comments to the study team:

All three CARA options encompass areas of the Chesapeake Bay with a high density of recreational boating, commercial fishing, and commercial shipping traffic. All in water activity should be coordinated with the US Coast Guard Sector Baltimore to properly alert mariners. The boat launch and entrance channel at Sandy Point State Park in Corridor 7 is a highly trafficked area, and of particular interest to DNR. Please refer to Maryland Park Service comments below for more information on this resource. Proposed construction may require buoy relocations or temporary boating speed zones which would need to be coordinated with Federal Agencies.

The Maryland Park Service has reviewed the Bay Crossing Study Tier 1 Environmental Impact Statement as provided. Of utmost concern are any potential impacts to Sandy Point State Park. Please consider the following:

- Over the past 5 years, Sandy Point has welcomed over 1 million day use visitors annually, with those numbers rising each year.
- Sandy Point is the site of numerous annual events attended by thousands of people including the Special Olympics Polar Bear Plunge, the Chesapeake Bay Blues Festival and the Seafood Festival. There are no similar venues nearby with adequate infrastructure that could meet the same purpose.
- Substantial public investment has been made at Sandy Point, including funding through the National Park Service (Land and Water Conservation Fund as well as other programmatic funds) along with State capital investments through the Natural Resources Development Fund.
- State has invested \$5 to 10 million in the boating facility alone at Sandy Point within the last decade. Sandy Point represents one of the only public boat launches in Anne Arundel County and is by far the largest with the most direct access to the Bay.
- The Natural Resources Police and Anne Arundel County Fire Department utilize the Sandy Point Marina as the base for their marine crews for emergency response, often to the base of the Bay Bridge itself to respond to accidents and injuries from the bridge.
- The entrance channel to the marina is directly adjacent to the base of the existing bridge. Additional bridge or tunnel infrastructure could require modification to this entrance and the marina in general.
- The park's water tower (providing water for the entire park) is directly adjacent to the existing entrance channel.

Due to the potential for substantial impacts to recreation, park infrastructure, aesthetics, natural resources and sensitive habitats, any future Tier 2 studies should provide clear and up to date information including:

1. An up-to-date assessment of the current and projected use of Sandy Point as a regional outdoor recreation destination.
2. Assessment of costs and available locations for similar replacement lands and outdoor recreation opportunities including swimming and fishing beaches, picnic areas and boating/fishing access. Such costs and locations should also include the infrastructure needed to support such uses such as water and sewer services,

Tawes State Office Building – 580 Taylor Avenue – Annapolis, Maryland 21401  
410-260-8DNR or toll free in Maryland 877-620-8DNR – [dnr.maryland.gov](http://dnr.maryland.gov) – TTY Users Call via the Maryland Relay



- bathhouses, concession stand, parking, roads, etc. Any future project should ensure no net loss of recreation acreage or opportunities. Such facilities would need to be in place prior to any impacts to current facilities.
3. An assessment of tidal and nontidal wetlands, forests, Critical Area buffers, mitigation areas, streams and trails.

Any impacts to DNR managed land will require direct coordination with DNR as project planning and review continues, this will include engaging in DNR's Internal Review process.

Please consider evaluating a full tunnel alternative in the Tier 2 Study. This would benefit cost comparisons with the full span and bridge-tunnel engineering options used in the Tier 1 study. Including a full tunnel option in Tier 2 would also allow the project team to evaluate tunnelling as impact avoidance and minimization in Corridor 7 for public lands impacts (Sandy Point and Terrapin Park), property ownership constraints (Bay Bridge Airport), natural resource impacts for in water construction, time of year restrictions from in- water construction; and minimizing mitigation and permitting requirements.

DNR appreciates that comments provided by DNR Wildlife and Heritage Service in April 2020 were incorporated into this report. Additional coordination may be needed as Tier 2 studies progress.

The Maryland Department of Natural Resources, Fishing & Boating Services, is responsible for managing commercial and recreational fishing and shellfish aquaculture production in the State. A diverse range of resident and migratory finfish and shellfish species inhabit tidal portions of the Chesapeake Bay and its tributaries; these may be adversely affected by this project. Many of these species sustain valuable commercial and recreational fisheries and aquaculture industry. DNR's management objective is to maintain sustainable fisheries by using biological, technical, and socio-economic data to develop science-based management strategies for commercial, recreational, ecological and economically important species. For the purpose of this general scoping exercise, we have identified the following categories and types of natural resource issues that MDTA should include in the Tier 2 study. They include, but are not limited to: commercial fisheries (including but not limited to: blue crabs, striped bass, oysters, clams, white perch and menhaden); recreational and charter fisheries (including but not limited to: striped bass, white perch, spot, croaker, red drum, black drum, weakfish, largemouth bass, smallmouth bass, walleye); forage fish (including but not limited to: menhaden, and bay anchovies); shellfish restoration areas; shellfish aquaculture leases; rare, threatened, and endangered aquatic species; recreational boating; and commercial navigation. The Maryland Department of Natural Resources, Fishing & Boating Services looks forward to working with you on this project.

Time of year restrictions for in water work will be coordinated at the Tier 2 level due to the multiple resources involved. The proposed project will impact both tidal and non-tidal fisheries resources. As design progresses, DNR will also have concerns over appropriate stormwater design, sediment and erosion control and aquatic animal passage for new construction and widened/ altered road crossings of streams. To minimize impact to water quality, DNR requests that runoff from bridge scuppers be diverted and possibly treated to not directly enter the waterway.

The following are some report specific comments for your consideration:

- Section 2.4, bulleted list on page 2-17- Fishery resources and public parks are important resources around the preferred alternative, these should be named as natural resources that will be considered in the Tier 2.
- Section 4.1.2 – When discussing Corridor 7, it may be important to note that the existing bridge alignment is adjacent to community or public facilities- specifically Sandy Point State Park, Terrapin Nature Park, and Bay Bridge Airport as important features adjacent or neighboring the existing crossing corridor.
- Section 4.3.8 – Please note that Sandy Point State Park is under Land and Water Conservation Fund (LWCF) 6(f) compliance, as there has been assistance through development and acquisition projects at the park and LWCF protections are in perpetuity. Any lands under LWCF 6(f) compliance are required to be used for public outdoor recreation opportunities. Because of this, if land use changes for any parcel, the applicant may be required to find replacement land to fulfill the Department of Interior's conversion requirements. If land use is proposed to change, it is necessary that the applicant coordinate with the appropriate units at DNR. Please contact DNR for additional information if impacts are anticipated.
- Section 4.4 – The administrative draft of the DEIS circulated in May 2020 included a section for Public Lands (Section 4.4.5, May 2020) which seems to be absent in this 2021 DEIS version. DNR appreciates the inclusion of the 4(f) and

- 6(f) resources in Section 4.3; however, these do not seem to address all the lands/ acreage discussed in the old Public Lands section in the 2020 DEIS version.
- Section 4.4.2.1- DNR appreciates MDOT acknowledging that the Severn River is classified as a State designated Scenic and Wild. However, please correct the term used in the text; the DEIS states that it is "Wild and Scenic". Please continue to coordinate with DNR regarding design impacts to the Severn River and its viewshed as design progresses.
  - Section 4.4.4.2- The Corporate Land (CL) areas in Corridor 7 appear to be the incorporated areas of the City of Annapolis. Similar to the CL areas around Rock Hall. Additional definition or clarification of "CL lands" may be needed.
  - Section 4.4.7 – Regarding Natural Oyster Bar and oyster sanctuary presence within the CARA—please note that instream work within 500 yards of oyster resources may be subject to time of year restrictions. These will be coordinated at the Tier 2 level of study. It is expected that impacts to oyster resources will be avoided as design progresses.
  - Section 4.10 – Tier 2 coordination with DNR should also include (but is not limited to) tidal and non-tidal fisheries coordination (including commercial, recreational, and charter fisheries impact avoidance), instream time of year restrictions, and State- listed rare, threatened, and endangered species coordination. DNR fisheries of concern include both finfish and shellfish.

DNR does not oppose the proposed recommended alternative (Corridor 7). DNR requests input for study scoping for the Tier 2 analysis so that concerns regarding tidal and nontidal fisheries; Sandy Point State Park resources; recreational, charter, and commercial fisheries; rare species; navigation, and other resources are addressed. Any impacts to DNR managed land will require review through DNR's Internal Review process. Additionally, DNR may have comments and suggestions for mitigation associated with this project and looks forward to coordinating when appropriate. Thank you for the opportunity to review and comment. Please feel free to contact me to discuss these comments or for further coordination.

Sincerely,



Gwen Gibson  
Maryland Environmental Service/ SHA Liaison  
Environmental Review Program  
Department of Natural Resources



## Maryland Department of Natural Resources Response

The Bay Crossing Study Team appreciates the input provided by the Maryland Department of Natural Resources (MDNR) on the Tier 1 DEIS. MDTA will continue to coordinate with MDNR throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

MDTA has opted to apply procedures approved by the Council on Environmental Quality to develop a streamlined Tier 1 FEIS/ROD for the Bay Crossing Study. To achieve this, MDTA prepared an errata of changes to the DEIS rather than reproducing the full text of the DEIS as part of the FEIS. MDTA is therefore applying updates to the DEIS in the FEIS/ROD only for substantial factual revisions (**Chapter 2**) or supplementary analysis (**Chapter 3**) relevant to the comparison of Corridor Alternatives and identification of the PCA.

MDTA acknowledges the importance of Sandy Point State Park and recognizes the need to avoid and minimize impacts at the park. A future Tier 2 study would include detailed evaluation of alternative alignments within the PCA (Corridor 7). The comparison of such alternatives would consider the potential for impacts to Sandy Point State Park. Furthermore, pursuant to the requirements of Section 4(f), any use of the park property would include evaluation of feasible and prudent avoidance alternatives, coordination with the officials with jurisdiction, and all possible planning to minimize harm to Sandy Point State Park and any other identified Section 4(f) resource within the study area.

MDTA did not evaluate a tunnel-only configuration in the Tier 1 study due to the anticipated high cost of a tunnel-only crossing.

MDTA appreciates the suggested categories and types of natural resources issues that MDNR Fishing & Boating Services has provided for inclusion in a Tier 2 study. MDTA will retain this list for consideration during the scoping phase of a potential future Tier 2 study; and would also continue coordination with MDNR during a Tier 2 study.

Responses to report-specific comments are included below.

- Fishery resources and public parks will be considered in Tier 2; the list in Section 2.4 of the DEIS provides examples but is not an exhaustive list of all resources to be evaluated.
- The presence of community facilities in close proximity to the Bay Bridge and US 50/301 is noted in DEIS Section 4.9.2.2.
- Potential impacts to properties protected by Section 6(f) would be considered in a potential future Tier 2 study.
- The Section 4(f) discussion included in the published DEIS includes consideration of all known parks and wildlife refuges properties within the corridor alternatives. Some changes relative to the previous administrative draft reviewed by MDNR in May 2020 are reflected in the published DEIS based on refinement of the environmental inventory calculations, agency comments on the draft, and other updates implemented prior to publication. Additional discussion of public lands is also included in the Natural Resources Technical Report, Section 5.4.
- As noted in Chapter 2 of the FEIS, the reference to the Severn River as a State designated Scenic and Wild river has been corrected. MDTA would continue to coordinate with MDNR regarding impacts and the river's viewshed in a potential future Tier 2 study.

- More detailed discussion of Chesapeake Bay Critical Areas, including updated data and classification as needed, would be included in a potential future Tier 2 study.
- Further analysis of oyster bar and oyster sanctuaries, including efforts to avoid and minimize impacts to these resources, would be conducted during a future Tier 2 study.
- MDTA would coordinate with MDNR during a potential future Tier 2 study regarding tidal and non-tidal fisheries, instream time of year restrictions, State-listed RTE species, and DNR fisheries of concern.

## National Oceanic and Atmospheric Administration – National Marine Fisheries Service Comment



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930-2276

May 10, 2021

Jeanette Mar  
Environmental Program Manager  
USDOT Federal Highway Administration  
31 Hopkins Plaza, Suite 1520  
Baltimore, Maryland 21201

RE: Chesapeake Bay Crossing Study; Tier 1 National Environmental Policy Act Draft  
Environmental Impact Statement (DEIS)

Dear Ms. Mar:

We received the February 23, 2021, letter from the Maryland Transit Authority (MDTA) notifying us of the availability of the Chesapeake Bay Crossing Study: Tier 1 National Environmental Policy Act Draft Environmental Impact Statement (DEIS). The MDTA is preparing the EIS in coordination with the Federal Highway Administration (FHWA) in accordance with the National Environmental Policy Act (NEPA). The purpose of the Tier 1 study is to consider multiple corridors for providing additional traffic capacity and access across the Chesapeake Bay. The Tier 1 study will initiate the NEPA process with the goal of narrowing the scale and scope of this complex project prior to more detailed analysis in a future Tier 2 NEPA analysis. This DEIS considered a No-Build Alternative and three potential two-mile wide corridor alternatives previously identified as Corridor Alternatives Retained for Analysis (CARA) as a result of the screening process applied to 14 initial corridors previously identified.

In this DEIS, Corridor 7 which contains existing US 50/301 and the associated Gov. William Preston Lane Jr. Memorial Bridge is designated as the MDTA Recommended Preferred Corridor Alternative (RPCA). Several reasons for this designation were described including greater estimates of congestion relief and the potential for fewer environmental impacts to Chesapeake Bay aquatic resources. The latter argument is based in large part on the fact that this corridor offers the shortest distance to cross the Chesapeake Bay and will thus may result in a smaller overall in-water footprint. Furthermore, it is suggested that cumulative and indirect impacts may be fewer due to the ability of this corridor to integrate with existing highway infrastructure (i.e., US 50/301).

FHWA and MDTA are soliciting input on this Tier 1 DEIS to inform the development of a Final Environmental Impact Statement (FEIS) and subsequent issuance of a Record of Decision (ROD) identifying the Tier 1 selected alternative. While the action of selecting a preferred



corridor does not necessitate the initiation of the Tier 2 NEPA process, it does substantially narrow the scope of the NEPA process should it continue. Completion of the Tier 1 process facilitates the consideration of different alignments within that defined area which will require further coordination with us and other resource agencies to ensure that impacts are avoided, minimized, and otherwise compensated for. We understand that this Tier 2 process will retain Transportation System Management (TSM)/ Travel Demand Management (TDM), and Bus Rapid Transit (BRT) as alternatives in combination with other alternatives (i.e., Corridor 7, No Action). We offer the following comments to assist in the development of these Tier 1 documents and ensure that they accurately reflect the NOAA trust resources present and consider potential direct, indirect, and cumulative impacts to those resources.

*Magnuson Stevens Fisheries Conservation and Management Act (MSA) and Fish and Wildlife Coordination Act (FWCA)*

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with one another on projects such as this that may adversely affect EFH. In turn, we must provide recommendations to conserve EFH. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. Adverse effects to EFH may result from action occurring within EFH and include impacts to prey species and their habitat. The proposed construction of an additional Chesapeake Bay crossing will adversely affect EFH through the direct loss of aquatic habitats (e.g., subtidal shallows, submerged aquatic vegetation) and indirect effects associated with induced demand and land use change.

In addition to the MSA, the Fish and Wildlife Coordination Act requires that all federal agencies consult with us whenever the waters of any stream or other body of water are proposed or authorized to be modified for any purpose. Activities proposed to be authorized under Section 404 of the CWA or Section 10 of the Rivers and Harbors Act generally require consultation with us under the FWCA and it is generally undertaken in conjunction with the EFH consultation.

Early and frequent coordination, such is generally afforded under the NEPA process, generally facilitates consideration of potential impacts to aquatic habitats and appropriate avoidance, minimization, and mitigation approaches. This level of coordination can also reduce the number of EFH conservation recommendations we issue when a complete description of the proposed action becomes available.

**Aquatic Resources**

Construction of a new Chesapeake Bay Crossing and associated roadway infrastructure in any corridor considered in this DEIS, will adversely affect NOAA trust resources through a variety of pathways ranging from direct to indirect and impacting a variety of species with diverse life histories. These species include federally managed fish species with designated EFH in the project area, their prey, habitat areas of particular concern (HAPC), and other aquatic resources. These corridors also provide habitat for several migratory species of fish which we work to protect under the FWCA.



We appreciate your consideration of our previous comments during the development of these documents and recognize that the summaries and analyses provided in Chapter 4 of the DEIS entitled “Affected Environment and Environmental Consequences” and in the Natural Resources Technical Report (NRTR) more accurately reflect the NOAA trust resources present in the project area and their designations under the MSA. We offer the following clarifications to ensure that the FEIS accurately reflects the species present, their associated habitats, and various designations:

- The project area also contains designated EFH for juvenile and adult windowpane flounder (*Scophthalmus aquosus*) which has designated EFH in the mixing water ( $0.5 < \text{salinity} < 25.0\text{‰}$ ) areas of Chesapeake Bay and are found across a variety of depths/substrates present in the project area. This species should be included to accurately describe the suite of federally managed fish species present in the project area. (page 4-77)
- The corridor study is correctly described as containing spawning habitat for anadromous species, but it also includes migrating, resting, feeding, and rearing habitat for these species. While spawning is a particularly sensitive stage in their life history, other stages of anadromous fish life history should be considered as different project-related stressors (e.g., generation in-water noise) may affect each differently depending on time of year, location, and the nature of the stressor. (page 4-77)
- Several special aquatic sites designated under Section 404 of the Clean Water Act are not described in this DEIS. These areas also include vegetated tidal wetlands, mudflats, and subaqueous gravel substrates. (page 4-78)

We appreciate the extent to which our previous comments are reflected in the most recent iteration of the DEIS and we are happy to provide additional information as needed to ensure that forthcoming documents accurately reflect NOAA trust resources present in the study area.

#### **Corridor Selection and Recommendations**

Provided that the presented analyses are based on valid assumptions related to future/induced traffic demand when considering the stated benefits of the corridor alternatives on congestion relief, we concur that Corridor 7 is likely the alternative which will both fulfill state project goals while presenting the fewest direct, indirect, and cumulative impacts for aquatic resources in accordance with the reasoning described in this DEIS. While general site characteristics provided may not capture the granularity needed to truly weigh the impacts associated with each corridor, the acreages of sensitive habitats (e.g., natural oyster bars) present in each corridor along with the consideration of indirect and cumulative impacts indicates that Corridor 7 likely presents the least environmentally damaging alternative among the CARA. We support the retention of TSM/TDM, BRT, and No Action alternatives for the Tier 2 process and agree that these alternatives should be considered in combination to determine whether project goals can be achieved while avoiding additional impacts to aquatic habitats.

The extent of impacts to our trust resources are yet to be determined and will be further elucidated during the Tier 2 process. Should that process be initiated and Corridor 7 be the

preferred alternative relative to those retained, we will work with you to ensure that these impacts are avoided, minimized, and, in the case of truly unavoidable impacts, properly compensated for in anticipation of these future actions. In order to fulfill your consultation obligations under the MSA, we anticipate that Tier 2 of the NEPA process will involve extensive coordination with us, which will help to ensure that concerns are addressed during project planning and will facilitate our consultation process. Site-specific data collected during field investigations should be used to inform the design/selection of an alignment within the selected corridor. These data will be essential to inform our recommendations and measures required to avoid/minimize impacts to aquatic habitats. These should include surveys to describe benthic substrates (e.g., hydroacoustic, grab samples), benthic infauna composition/density, SAV distribution, wetland delineations, and additional surveys as necessitated by areas proposed to be impacted. We look forward to working with your team to develop this suite of surveys and associated research questions.

#### **Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA)**

Threatened or endangered species under our jurisdiction including Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) may be present in the project area. In addition, four species of federally threatened or endangered sea turtles under our jurisdiction occur seasonally in the waters of Chesapeake Bay from late April – mid November of each year: the threatened Northwest Atlantic Ocean Distinct Population Segment (DPS) of loggerhead (*Caretta caretta*), the endangered Kemp's ridley (*Lepidochelys kempii*), and the endangered leatherback (*Dermochelys coriacea*). On April 6, 2016, NMFS published the final rule listing eleven Green sea turtle (*Chelonia mydas*) DPSs. Eight DPSs were listed as threatened and three as endangered. The DPS found in U.S. Atlantic waters, the North Atlantic DPS, is listed as threatened. Due to the inability to distinguish between these populations away from the nesting beach, we consider green sea turtles endangered wherever they occur in U.S. waters.

As the lead federal action agency, you are responsible for determining the nature and extent of effects and for coordinating with our Protected Resources Division as appropriate. Our website (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultations-greater-atlantic-region>) has guidance and tools to assist action agencies with their description of the action and analysis of effects to support their determination. Should you have any questions about the section 7 consultation process, please contact Brian Hopper at [brian.d.hopper@noaa.gov](mailto:brian.d.hopper@noaa.gov).

Finally, species protected under the Marine Mammal Protection Act (MMPA) such as common bottlenose dolphin (*Tursiops truncatus*) have been identified in the project areas. Our website (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-policies-guidance-and-regulations>) has guidance and tools to assist action agencies with this consultation process. Please work with Jaclyn Daly ([jaclyn.daly@noaa.gov](mailto:jaclyn.daly@noaa.gov)) at our Headquarters office as necessary to ensure adequate protection for these species.

## Conclusion

Thank you for the opportunity to review and comment on this DEIS. If you should have any questions regarding, please do not hesitate to contact Jonathan Watson in our Maryland field office at [jonathan.watson@noaa.gov](mailto:jonathan.watson@noaa.gov) or (410) 295-3152.

Sincerely,

GREENE.KAREN.M.1  
365830785

Digitally signed by  
GREENE.KAREN.M.1365830785  
Date: 2021.05.10 11:48:32 -04'00'

Karen M. Greene  
Mid-Atlantic Branch Chief  
Habitat and Ecosystem Services Division

cc:

PRD – B. Hopper, M. Murray Brown

NCBO – S. Corson

OPR – J. Daly

MDTA – H. Lowe

## National Oceanic and Atmospheric Administration – National Marine Fisheries Service Response

The Bay Crossing Study Team appreciates the input provided by the National Oceanic and Atmospheric Administrations (NOAA) National Marine Fisheries Service (NMFS) on the Tier 1 DEIS. MDTA will continue to coordinate with NMFS throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

MDTA would consult with NMFS regarding impacts to NOAA trust resources including federally managed fish species with designated essential fish habitat (EFH) in the project area, their prey, habitat areas of particular concern (HAPC), and other aquatic resources under the Magnuson-Stevens Fishery Conservation and Management Act and Fish and Wildlife Coordination Act during any future Tier 2 NEPA study.

The Study Team has revised Section 4.4.7, to document that the study area contains designated EFH for juvenile and adult windowpane flounder, as noted in **Chapter 2** of the FEIS.

The Study Team had revised Section 4.4.7.4, as noted in **Chapter 2** of the FEIS, note that the corridor study area includes migrating, resting, feeding, and rearing habitat for anadromous species.

The Study Team has revised Section 4.4.7.4 to include vegetated tidal wetlands, mudflats, and subaqueous gravel substrates in the list of special aquatic sites as noted in **Chapter 2** of the FEIS

MDTA will coordinate with NMFS and its divisions regarding threatened and endangered species and marine mammals as appropriate during any future Tier 2 NEPA study.



## US Army Corps of Engineers Comment



DEPARTMENT OF THE ARMY  
BALTIMORE DISTRICT, CORPS OF ENGINEERS  
ATTN: REGULATORY BRANCH  
2 HOPKINS PLAZA  
BALTIMORE, MD 21201

May 13, 2021

Operations Division

Ms. Jeanette Mar  
Federal Highway Administration  
Maryland Division  
31 Hopkins Plaza, Suite 1520  
Baltimore, Maryland 21201

Dear Ms. Mar:

This is in response to the request for review and comments of the Maryland Transportation Authority (MDTA) and Federal Highway Administration (FHWA) February 2021 Tier I Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study. The Tier I DEIS considered the entire length of the Chesapeake Bay and assessed the potential environmental impacts of adding capacity at the existing bridge location or a new bridge location. The Tier I DEIS study considered a full range of potential corridor alternatives and identified Corridor 7, the existing bridge corridor, as the preferred corridor crossing. The U.S. Army Corps of Engineers, Baltimore District (Corps) understands that identification of Corridor 7 in the Tier I EIS will not conclude the study and that MDTA and FHWA intend to prepare a second NEPA document (i.e., a Tier II EIS) to complete the NEPA process for the Bay Crossing Study. The Tier II study will evaluate a full range of potential alignments within Corridor 7 and assessed the potential environmental impacts of each alternative alignment and compare them to a no build alternative.

The Corps has no comments on the Tier I DEIS for the Chesapeake Bay Crossing Study. The Tier I DEIS is well written, addresses our previous comments, and the Corps appreciates the time and effort spent preparing the document. The Corps also understands that ultimately the proposed Bay Crossing project will likely result in discharges of dredged and fill material into waters of the U.S., including jurisdictional wetlands, and structures built in navigable waters and which cross the Corps Federal Navigation Channel. Therefore, the project will require a Department of Army (DA) authorization under Section 404 of the Clean Water Act and Section 10 and 14 of the Rivers and Harbors Act. For this reason, the Corps would request we remain a cooperating agency in the preparation of the Tier II EIS. Also, in anticipation of preparation of a Tier II NEPA document for Corridor 7, we offer the following updated comments regarding the preparation of a Tier II EIS document.

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The Tier II EIS should evaluate project alignment alternatives, permanent and temporary impacts to waters of the U.S., including jurisdictional tidal and nontidal streams and wetlands, permanent and temporary roads, stormwater management, disposal of excess material, including dredged material), mitigation proposals, and secondary and cumulative impacts. As with the Tier I NEPA evaluation, the Corps requests the following topics be comprehensively evaluated and documented in the NEPA process:

The Purpose and Need of the Proposed Project. In order to satisfy the Department of Army regulations, any selected preferred alternative alignment must be consistent with and supported by the project's concurred upon purpose and need statement

Alternatives Analysis/Clean Water Section 404(b)(1) Guidelines. Under Section 404, only the Least Environmentally Damaging Practicable Alternative (LEDPA) can receive Department of Army authorization. Note that an alternative is practicable if it is available and capable of being done after taking consideration cost, logistics, and existing technology in light of the overall project purposes. Because of this, at a minimum, the NEPA documentation must ultimately evaluate the practicability of various alignment alternatives and avoidance and minimization techniques. Based on the agreed upon project purpose and need, and in accordance with established Corps policy on the review of linear transportation projects, the Corps will need to concur on the range of alternative alignment retained for detailed study in the Tier II EIS. The Tier II EIS should clearly document study constraints and the various evaluation factors for each alternative alignment in consistent manner to allow meaningful comparisons and the ultimate identification/documentation of the LEDPA. The interagency review team, including the Corps, should review and approve the study constraints and evaluation factors and methods prior to completing the analysis.

Corps Public Interest Review Factors. As stated in previous correspondence, the decision to issue a DA permit for a new Chesapeake Bay crossing will be based on an evaluation of the probable impacts, including secondary and cumulative impacts, of the proposed activity and its intended effect on the public. Among the factors that must be evaluated as part of the Corps public interest review include: conservation, economics, aesthetics, general environmental concerns, wetlands and streams, historic and cultural resources, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, energy needs, safety, food and fiber production, mineral needs, water quality, consideration of property ownership, air and noise impacts, and in general, the needs and welfare of the people. These Corps public interest factors must be comprehensively evaluated in the NEPA process, as we weigh and balance overall impacts of potential project alignments.

Delineation. The initial screening of alternative alignments in the Tier II EIS must be compared using the same level evaluation for determining impacts to waters of the U.S. (i.e., an approved jurisdictional determination is not required for all the alternative alignments evaluated in the Tier II EIS; however, the comparison of aquatic resources must be based on a consistent approach). For example, if a desktop JD analysis is conducted for one alternative corridor, it must be conducted for all alternative corridors.

-3-

Please note that the definition of waters of the U. S. has changed since the beginning of the project and the current definition should be used for identification of jurisdictional resources in the Tier II evaluation process.

Impacts. The Tier II EIS should quantify temporary and permanent impact to all waters of the U.S., including tidal and nontidal wetlands, for each alternative alignment in a way that allows meaningful comparisons. As stated above, an approved jurisdictional determination is not required for all the alternative alignments considered in the Tier II EIS; however, the resources and impacts must be evaluated in a consistent manner for a meaningful comparison.

Cumulative Impacts. As stated in previous correspondence, a new Chesapeake Bay crossing would have effects far beyond the direct impacts associated with any crossing footprint. Cumulative, secondary and indirect impacts resulting from the project along with historical impacts and possible changes in land use must continue to be analyzed within the preferred corridor area. Support infrastructure, such as new and/or upgraded access/approach roadways to logical termini, must also be included in the analysis. It is anticipated the Tier II analysis will refine the cumulative impact analysis provided in the Tier I EIS.

Disposal Sites. An estimate of material and the potential need for disposal site(s) should be included in the analysis. The Corps would also strongly encourage, as part of the study, evaluating and seeking opportunities for beneficial uses of any dredged material.

Compensatory Mitigation. In accordance with the Corps/EPA 2008 Final Mitigation Rule, compensatory mitigation for unavoidable permanent impacts to aquatic resources will need to be evaluated and approved as part of a Department of Army authorization.

Compliance with Existing Acts. Analysis of the project's compliance with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 401 of the Clean Water Act, and the Magnuson-Stevens Fishery Conservation and Management Act, and Air quality standards under the Clean Air Act General Conformity Rule Review.

Compliance with Executive Orders. The NEPA process must evaluate compliance with Executive Orders on floodplains and environmental justice.

Section 408 Compliance. Corps Federal Navigation Channel(s) are within the study area. Section 14 of the River and Harbors Act of 1899, as amended, and codified in 33 USC 408 (Section 408) provides that the Secretary of the Army may, upon the recommendation of the Chief of Engineers, grant permission to other entities for the permanent or temporary alteration or use of any Corps Civil Works project. This requires a determination by the Secretary that the requested alternation is not injurious to the public interest and will not impair the usefulness of the Corps (Civil Works) project. In order to assure compliance with Section 408 requirements, please evaluate the applicability of Section 408 to the proposed project alignments.



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Water Quality Certification. Please note that if MDTA plans to seek DA authorization at the conclusion of the NEPA process then water quality certification (WQC) from Maryland will be required. The WQC process has been updated since the beginning of the NEPA process and the Corps would request MDTA and FHWA contact us and MDE as the Tier II NEPA process begins to discuss the WQC process and permitting.

As stated above, the Corps has no comments on the Bay Crossing Study Tier I DEIS; however, the Corps understands that ultimately the proposed Bay Crossing project will likely result in discharges of dredged and fill material into waters of the U.S., including jurisdictional wetlands, and structures built in navigable waters. We look forward to continuing to work with your agency, MDTA, and other cooperating and consulting parties as the Tier I DEIS is finalized and the next round of documents are developed in the NEPA process to ensure that the information presented is adequate to fulfill the requirements of Corps regulations, the Clean Water Act Section 404(b)(1) Guidelines, Section 10 of the Rivers and Harbor Act, and the Corps' public interest review process. In anticipation of the Tier II NEPA study, we concur that the FHWA would remain the lead Federal agency on this project as potential project alignments are evaluated. Therefore, FHWA would continue to coordinate with the Native American tribes and be the responsible Federal agencies to ensure compliance with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 401 of the Clean Water Act, and the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267) [essential fish habitat (EFH) assessment].

Again, we look forward to coordinating with FHWA and MDTA as this important study proceeds. If you have any questions concerning this matter, please contact me at (410) 962-6005 or john.j.dinne@usace.army.mil.

Sincerely,



Jack Dinne  
Biologist, Maryland North Section

Cc (via email):

Ms. Heather Lowe, MDTA, hlowe@mdta.state.md.us

Ms. Sarah Williamson, Coastal Resources, Inc., sarahw@cri.biz

## US Army Corps of Engineers Response

The Bay Crossing Study Team appreciates the input provided by the U.S. Army Corps of Engineers (USACE) during the preparation of the Tier 1 DEIS. MDTA will continue to coordinate with USACE throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study. In response to specific comments related to a potential future Tier 2 NEPA study contained in USACE's comment letter, the Bay Crossing Study Team offers the following responses.

MDTA acknowledges that the project will require a Department of Army (DA) authorization under Section 404 of the Clean Water Act and Section 10 and 14 of the Rivers and Harbors Act and agrees that USACE should remain a cooperating agency for any future Tier 2 NEPA study.

MDTA anticipates that a future Tier 2 study would include more detailed analysis of alignment alternatives, permanent and temporary impacts to waters of the U.S., including jurisdictional tidal and nontidal streams and wetlands, permanent and temporary roads, stormwater management, disposal of excess material, including dredged material, mitigation proposals, and secondary and cumulative impacts based on alternative alignments within a Tier 1 selected corridor.

MDTA anticipates that a future Tier 2 study would include detailed evaluations of Purpose and Need of the Proposed Project, Alternatives Analysis/Clean Water Section 404(b)(1) Guidelines, Corps Public Interest Review Factors, Delineation, Impacts, Cumulative Impacts, Disposal Sites, Compensatory Mitigation, Compliance with Existing Acts, Compliance with Executive Orders on floodplains and environmental justice, Section 408 Compliance, and Water Quality Certification based on alternative alignments within a Tier 2 selected corridor.

USACE concurred that FHWA would remain the lead Federal agency on this project and therefore, FHWA would continue to coordinate with the Native American tribes and be the responsible Federal agency to ensure compliance with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, Section 401 of the Clean Water Act, and the Magnuson-Stevens Fishery Conservation and Management Act. FHWA and MDTA will remain the lead federal and state agencies, respectively, throughout the remainder of the Tier 1 NEPA study as well as any future Tier 2 NEPA study.

## Maryland Department of Transportation State Highway Administration Comment

**From:** Stephen Miller <SMiller2@mdot.maryland.gov>  
**Sent:** Monday, May 10, 2021 9:15 PM  
**To:** Sarah Williamson <sarahw@cri.biz>  
**Cc:** Heather Lowe <hlowe@mdta.state.md.us>; Lisa Shemer <LShemer@mdot.maryland.gov>; Matt Baker <MBaker4@mdot.maryland.gov>; Donna Buscemi <DBuscemi@mdot.maryland.gov>; Tara Penders <TPenders@mdot.maryland.gov>  
**Subject:** RE: Bay Crossing Study DEIS Transmittal

Sarah,

I have attached to this e-mail the following:

- General MDOT SHA comments on the DEIS and Appendix A
- MDOT SHA's Travel Forecasting and Analysis Division's (TFAD) specific comments to the Traffic Analysis Technical Report
- A Word document containing comments from Jon Korin, Anne Arundel County Bicycle Advisory Commission Chair (submitted via e-mail).

In addition to these attachments, we TFAD had additional questions regarding the Travel Demand Forecasting Methodology (TDFM), specifically:

1. Will the TDFM be included as a technical report? Some questions from previous round of comments still apply and should be resolved prior to completion since they may impact the data.
2. If the TDFM will not be included in technical reports. The comments previously made should be at a minimum be summarized within the Traffic Analysis Report. Information of queue length calculations, Summer vs Non-Summer AADT, forecasted proposed crossing should be summarized in Traffic Analysis Report.
3. The MSTM has been updated since this document. There was a note that mentioned doing a sensitivity analysis once an update was made so just wanted to mention it.

The first two questions primarily stem from the issue we found last Friday: that the TDFM isn't included as part of the part of the report and there are comments that TFAD had provided to the original version in June that haven't been addressed. I asked TFAD not to issue new comments to the TDFM this round as the TDFM wasn't part of the publicly available documentation, but we can work together to figure out what can be done to address all of TFAD's concerns. We can set up a meeting to discuss.

Thank you for this opportunity to comment. We look forward to future coordination.

Sincerely,

**Stephen P. Miller**

Regional Planner Anne Arundel & Howard Counties  
Regional and Intermodal Planning Division  
Maryland State Highway Administration  
[SMiller2@mdot.maryland.gov](mailto:SMiller2@mdot.maryland.gov)  
Work: 410 545 5673  
Cell: 917 214 1150



## **Chesapeake Bay Crossing Study Tier 1 NEPA – TFAD Comments**

**05/10/2021**

### **1. Content**

- a) Please explain the method of route choice decisions and how the ADT was translated into hourly volume. Section VI of the TDFM does not go into much detail on how the ADTs on table 5-5 were developed.
- b) Please provide more detailed explanation on the process to attain summer growth and hourly growth rates using the MSTM as the model represents AWDT. Section V.C of TDFM presents and briefly summarizes the data, however, there is no explanation on what was used. (did an hourly percent difference get calculated and applied to each hour, was the difference in Average Daily Traffic applied, or a different approach).

### **2. Editorial**

1. Consider labeling Bay Bridge on Figure 2-1 to highlight that corridor 7 follows existing Bay Bridge.

Document	Comment	Section / Figure / Table / PDF Page	Org
DEIS	Consider making TOC linked.	TOC / Pg. 5	MDOT SHA
DEIS	Consider adding a layer showing highlighting the full extent of the study area.	Figure 1-1 / Pg. 30	MDOT SHA
DEIS	Will the Ferry Study have a link provided?	Section 1.2 / Pg. 32	MDOT SHA
DEIS	Consider mentioning that Tier 2 is unfunded and provide an approximate cost for Tier 2 efforts.	Section 1.3.2 / Pg. 34	MDOT SHA
DEIS	Will Tier 2 evaluate the long term effects of Covid-19? If so, please mention.	Section 1.3.2 / Pg. 34	MDOT SHA
DEIS	More recent annual bridge volume available?	Figure 2-1 / Pg. 36	MDOT SHA
DEIS	More recent annual bridge volume available?	Table 2-1 / Pg. 37	MDOT SHA
DEIS	Is there an explanation of the change from travel spikes from 12-1pm in 2017 to 4-5pm in 2040?	Table 2-7 / Pg. 43	MDOT SHA
DEIS	Has providing lower toll rates for carpooling been considered? This would provide an incentive for carpooling and could substantially lower single person travel (and volume in general) across the bridge.  Additionally, as an "other" category working with beach hotels and other services to provide lower rates for people who start and end their trips during week days could lessen weekend volumes to eastern shore destinations. Was this type of coordination effort considered?	Section 3.1.2.1 / Pg. 53	MDOT SHA
DEIS	Corridor 6 extends through Kent County (though it is not the location of the termini). It is worth noting that Kent County continues to oppose the Bay Bridge Crossing in their latest 2020 priority letter. However, the actual eastern termini for this corridor is in Queen Anne's County, who have the new bridge as their No. 1 priority in their latest 2020 priority letter. May be worth mentioning.	Table 3-10 / Pg. 77	MDOT SHA

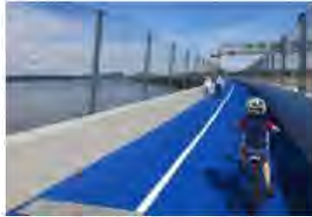
DEIS	The eastern termini for this corridor is in Queen Anne's County, who have the new bridge as their No. 1 priority in their latest 2020 priority letter. May be worth mentioning.	Table 3-10 / Pg. 78	MDOT SHA
DEIS	This note should have a superscript 1 next to it to correspond to the Cross Island Trail text it is associated with on the previous page. Also consider capitalizing "Cross Island Trail" in note.	Table 4-17 / Pg. 119	MDOT SHA
DEIS	Make clear what the unit of measurement is for each column. Currently unclear other than the note below the table.	Table 4-20 / Pg. 126	MDOT SHA
DEIS	Remove extra period.	Section 4.4.2.1 (1st Paragraph) / Pg. 132	MDOT SHA
DEIS	Consider moving the natural resource maps (Figures 4-5 through 4-9) to before or after the corridor narratives. Corridor 6 narrative is currently between the 4 figures.	Figures 4-5 to 4-8 / Pg. 131 to 135	MDOT SHA
DEIS	Consider moving Figure 4-9 before or after the corridor narratives.	Figure 4-9 / Pg. 139	MDOT SHA
DEIS	"area" misspelled as "are" [Section 4.4.4.2, first paragraph, 5th sentence]	Section 4.4.4.2 / Pg. 143	MDOT SHA
DEIS	Consider moving Figures 4-14 and 4-15 to before or after the corridor narratives.	Figures 4-14 and 4-15 / Pg. 156 and 157	MDOT SHA
DEIS	In addition, highly erodible soils are considered on slopes > 15%. [2nd paragraph]	Section 4.4.8 / Pg. 160	MDOT SHA
DEIS	Consider providing a % slope range, such as 0-5, 5-15, >15.	Figure 4-16 / Pg. 161	MDOT SHA
DEIS	Consider moving Figures 4-17 and 4-18 to before or after the corridor narratives.	Figures 4-17 and 4-18 / Pg. 163 and 164	MDOT SHA
DEIS	Consider cross checking with MDOT SHA Climate Change Vulnerability Viewer tool.	Section 4.4.9 / Pg. 165 to 166	MDOT SHA
DEIS	Consider moving Figures 4-19 to before or after the corridor narratives.	Figure 4-19 / Pg. 167	MDOT SHA
DEIS	Missing map scale bar	Figure 4-20 / Pg. 174	MDOT SHA
DEIS	Subscript the "3" for O <sub>3</sub> [Pg. 174, first paragraph, 3rd sentence]	Section 4.6.2.3 / Pg. 174	MDOT SHA



DEIS	Missing north arrow and map scale bar	Figure 4-21 / Pg. 175	MDOT SHA
DEIS	Can a link to this particular section of COMAR be provided?	Section 4.6.6.2 / Pg. 178	MDOT SHA
DEIS	Consider changing "maximum extent possible" to "maximum extent practicable". [Section 4.6.6.2, 1st paragraph, 3rd sentence]	Section 4.6.6.2 / Pg. 178	MDOT SHA
DEIS	Replace "Maryland" with "MDOT"	Table 4-41 / Pg. 180	MDOT SHA
DEIS	Where does the 4th note correspond to in Table 4-41?	Table 4-41 / Pg. 180	MDOT SHA
DEIS	Please consider specifying that the MDP 2010 Land Use/Land Cover Update is the latest data, if it is so. [3rd paragraph on page]	Section 4.7.3.4 / Pg. 184	MDOT SHA
DEIS	May be duplicate entries for US50: MD 70 to MD 2.	Table 4-46 / Pg. 195 and 196	MDOT SHA
DEIS	Consider adding US 301 over the Chester River Bridge Replacement Project, located in both Queen Anne's and Kent Counties. Project is currently in design. Construction NTP is anticipated for 3/31/2022 and construction completion is anticipated for 3/25/2023. This is an MDOT SHA project (source column).	Table 4-46 / Pg. 197	MDOT SHA
DEIS	Project remains under construction and is anticipated to be completed in September 2021	Table 4-46 / Pg. 197	MDOT SHA
DEIS	MD 213 Bridge Rehab projects in Centreville are complete as of 09/30/2020. Also please correct spelling of Centreville.	Table 4-46 / Pg. 197	MDOT SHA
DEIS	US 50, Ocean Gateway project is a CTP project	Table 4-46 / Pg. 197	MDOT SHA
DEIS	US 301 interchange at MD 304 project was completed and open to service 10/12/2017	Table 4-46 / Pg. 197	MDOT SHA
DEIS	There is a paragraph break between the 3rd and 4th paragraphs	Section 5.1 / Pg. 213	MDOT SHA
DEIS	Can a link to the regulations be provided? [Section 6.2, 2nd paragraph]	Section 6.2 / Pg. 226	MDOT SHA
DEIS	MDOT MAA	Table 6-5 / Pg. 227	MDOT SHA
DEIS	Information provided in section 6. Does it need to be repeated here?	Section 9 / Pg. 241	MDOT SHA

DEIS	Maryland Department of Transportation Maryland Aviation Administration	Section 9 / Pg. 242	MDOT SHA
Appendix A	Consider changing the color and or symbology of the CARA corridor layer; it is hard to see with the surrounding roads. Consider changing the color to yellow, which would stand out better and be consistent with all other maps.	General	MDOT SHA
Appendix A	General (land use/ land cover: corridor 7): CARA Layer color does not match the legend, but this is preferred as it stands out better.	Pg. 7 to 12	MDOT SHA
Appendix A	Add County Labels. Consider removing County Boundary layer as this is the only map it shows up in.	Pg. 5	MDOT SHA
Appendix A	General (community facilities and transportation maps): Labeling seems inconsistent as to what gets labelled and what doesn't.	General	MDOT SHA
Appendix A	General (recorded architectural resources, corridor 6): Shift legend over slightly to ensure text fully included in the extent of the map.	Pg. 41 to 46	MDOT SHA
Appendix A	General (noise sensitive areas maps): Consider having the land uses extend beyond the CARA corridor to get a better sense of the adjacent land uses that could be impacted. If the intent is to have this data clipped to the CARA corridor boundary, ensure all data are clipped appropriately - some data extend beyond and there are some places where the data do not extend to the boundary.	General	MDOT SHA

The Anne Arundel County Bicycle Advisory Commission unanimously supports the following position regarding a separated bicycle/pedestrian facilities in the Chesapeake Bay Bridge Crossing Study:



We do not take a position on if or where a new span should be built. However, if a new span is built in any location or one of the existing spans is replaced or renovated then we insist that a separated bicycle/pedestrian lane be included. This has been done on recent bridges of similar length around the U.S. including the replacement Tappan Zee (see photo) and Pensacola Bay bridges. Locally, the Woodrow Wilson Bridge has such a facility which is quite popular and the planned American Legion replacement is expected to have one as well. In spite of the governor's announcement that the Nice Bridge replacement would include a separated bike/ped facility, it was left out of the final bridge design. These are once in a multi-generation opportunities which should not be wasted. These bicycle/pedestrian facilities are in line with Maryland's Complete Streets policy and are a tremendous draw for tourism especially over the iconic Chesapeake Bay. A safe bicycle/pedestrian lane over the Chesapeake Bay would also provide passageway for long distance national trails, including the Delaware-to-California American Discovery Trail and the complementary (alternate) route of the Maine-to-Florida East Coast Greenway between Wilmington, DE and Annapolis via Dover, DE and Chestertown, MD. The lane would provide safe access to and from the scenic and historic byways on the Eastern Shore that are so popular with cyclists as well as non-motorized transportation to and from communities on both sides of the Chesapeake Bay. The bike/ped lane could also provide emergency vehicle access on the bridge when needed.

**Please specify a separated bicycle/pedestrian lane as a mandatory feature of any future Chesapeake Bay crossing as well as any other future bridges in Maryland.**

Jon Korin, Chair  
Anne Arundel County Bicycle Advisory Commission

## Maryland Department of Transportation State Highway Administration Response

The Bay Crossing Study Team appreciates the input provided by the Maryland Department of Transportation State Highway Administration (MDOT SHA) on the Tier 1 EIS. MDTA will continue to coordinate with MDP throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

MDTA has opted to apply procedures approved by the Council on Environmental Quality to develop a streamlined Tier 1 FEIS/ROD for the Bay Crossing Study. To achieve this, MDTA prepared an errata of changes to the DEIS rather than reproducing the full text of the DEIS as part of the FEIS. MDTA is therefore applying updates to the DEIS in the FEIS/ROD only for substantial factual revisions (**Chapter 2**) or supplementary analysis (**Chapter 3**) relevant to the comparison of Corridor Alternatives and identification of the PCA. MDTA appreciates the helpful suggestions on formatting, graphics, and editorial comments provided by MDOT SHA. MDTA provides the following clarifications and revisions in regard to some of MDOT SHA's more substantive DEIS comments.

- The Publicly Operated Ferry Service for the Chesapeake Bay Crossings study, which was conducted separately from the Bay Crossing Study, is currently available on the project website at [http://dlslibrary.state.md.us/publications/JCR/2019/2019\\_86-87.pdf](http://dlslibrary.state.md.us/publications/JCR/2019/2019_86-87.pdf).
- **FEIS Section 3.1.1** includes a discussion of the potential effects of COVID-19 on traffic volumes at the Bay Bridge. This includes discussion of available data for 2020-2021, and discussion of updating traffic analysis in a future Tier 2 study to reflect current conditions at that time.
- Chapter 1 of this FEIS notes that a Tier 2 study is not currently funded. An approximate cost for a Tier 2 study has not been identified at this time.
- Regarding DEIS Table 2-7, an explanation is noted in Chapter 2 of the DEIS, "The Sunday afternoon volumes during the summer are very consistent between 12 PM and 10 PM. The shift in the peak hour reflected for 2017 and 2040 is a result of this steady flow condition."
- Changes in toll rates are considered under TSM/TDM. The analysis determined that TSM/TDM measures, as a standalone alternative, would not meet the Purpose and Need for the study because it would not provide adequate capacity to relieve congestion at the existing bridge, provide dependable and reliable travel times, or provide flexibility to support maintenance and incident management at the existing bridge. TSM/TDM measures will be further analyzed in a Tier 2 study in combination with Corridor 7 and other MOAs.
- The DEIS did not directly address county Priority Letters; however, county comprehensive plans were included in the evaluation of indirect and cumulative effects, as discussed in Section 4.8 of the DEIS. This FEIS also addresses all agency comments provided during the DEIS comment period.
- **FEIS Chapter 2** includes a note of the corrected definition of highly erodible soils.
- **FEIS Chapter 3** includes supplementary discussion of climate change and sea level rise, including data provided by the MDOT SHA Climate Change Vulnerability Viewer tool.
- **FEIS Chapter 2** includes a note of revisions to DEIS Table 4-46, including the US 301 Chester River Bridge Replacement Project.



- A potential future Tier 2 NEPA study would evaluate possible bicycle and pedestrian access considerations for any new crossing infrastructure.

## Maryland State Clearinghouse Comments

Larry Hogan, Governor  
Boyd Rutherford, Lt. Governor



Robert S. McCord, Secretary  
Sandy Schrader, Deputy Secretary

### **Maryland DEPARTMENT OF PLANNING**

May 13, 2021

Ms. Sarah Williamson, Bay Crossing Study Team  
Coastal Resources Inc.  
25 Old Solomons Island Road  
Annapolis, MD 21401

Ms. Heather Lowe, Project Manager  
Maryland Transportation Authority  
Division of Planning & Program Development  
2310 Broening Highway  
Baltimore, MD 21224

#### **STATE CLEARINGHOUSE RECOMMENDATION**

**State Application Identifier:** MD20210223-0132

**Applicant:** Coastal Resources Inc. and The Maryland Transportation Authority

**Project Description:** Draft Environmental Impact Statement (DEIS): Tier 1 National Environmental Policy Act  
Chesapeake Bay Crossing Study as a First Step to Address Existing and Future Congestion at the Bay Bridge  
and its Approaches Along US 50 and US 301, Resulting in Identification of a Selected Corridor Alternative

**Project Address:** Chesapeake Bay Bridge, MD

**Project Location:** Counties of Anne Arundel, Baltimore, Calvert, Cecil, Dorchester, Harford, Kent, Queen Anne's,  
Somerset, St. Mary's, and Talbot

**Recommendation:** Consistent with Qualifying Comments and Contingent Upon Certain Actions

Dear Ms. Williamson and Ms. Lowe:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.02.04-.07, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation.

Review comments were requested from the Maryland Departments of General Services, Natural Resources, Transportation (MDOT), and the Environment (MDE); Anne Arundel County, Baltimore County, Calvert County, Cecil County, Dorchester County, Harford County, Kent County, Queen Anne's County, Somerset County, St. Mary's County, and Talbot County; the Baltimore Metropolitan Council; the Tri-County Council for Southern Maryland; and the Maryland Department of Planning (MDP), including the Maryland Historical Trust. The Maryland Department of Natural Resources, Calvert County, Dorchester County, and the Tri-County Council for Southern Maryland did not provide comments. Anne Arundel County, Baltimore County, Cecil County, and St. Mary's County; and the Baltimore Metropolitan Council did not have comments.

The Maryland Departments of General Services, and Transportation; Somerset County; and the Maryland Department of Planning found this project to be consistent with their plans, programs, and objectives.

Ms. Sarah Williamson & Ms. Heather Lowe  
May 13, 2021  
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State Application Identifier: **MD20210223-0132**

The Maryland Department of Planning (Regional Planners) included the following comments regarding their findings of consistent:

“MDP is supporting MDOT in its effort to receive public comments on this study. [The request for public comments] supports the state development plan, A Better Maryland, strategy to ‘provide state interagency assessment of and response to trends that affect local economic development’ and ‘assess and modify as needed state environmental programs to reinforce the land-use principles of sustainable growth/smart growth.’”

“The Draft Environmental Impact Study is in furtherance of the State Planning Visions of ‘Environmental Protection’, and ‘Transportation.’”

“The Draft EIS is consistent with the process for further evaluation and study of transportation and environmental impacts of a proposed crossing.”

Anne Arundel County stated, “There is no interest in this property.”

The Baltimore Metropolitan Council (BMC) stated, “BMC has no comments on this proposed project. Per MD Code BMC has notified and consulted with affected local jurisdictions in the Baltimore Region on this project.”

The Maryland Department of the Environment found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments summarized below.

1. “Any above ground or underground petroleum storage tanks, which may be utilized, must be installed and maintained in accordance with applicable State and federal laws and regulations. Underground storage tanks must be registered and the installation must be conducted and performed by a contractor certified to install underground storage tanks by the Land and Materials Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.
2. If the proposed project involves demolition – Any above ground or underground petroleum storage tanks that may be on site must have contents and tanks along with any contamination removed. Please contact the Oil Control Program at (410) 537-3442 for additional information.
3. Any solid waste including construction, demolition and land clearing debris, generated from the subject project, must be properly disposed of at a permitted solid waste acceptance facility, or recycled if possible. Contact the Solid Waste Program at (410) 537-3315 for additional information regarding solid waste activities and contact the Resource Management Program at (410) 537-3314 for additional information regarding recycling activities.
4. The Resource Management Program should be contacted directly at (410) 537-3314 by those facilities which generate or propose to generate or handle hazardous wastes to ensure these activities are being conducted in compliance with applicable State and federal laws and regulations. The Program should also be contacted prior to construction activities to ensure that the treatment, storage or disposal of hazardous wastes and low-level radioactive wastes at the facility will be conducted in compliance with applicable State and federal laws and regulations.
5. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. Accordingly, MDE’s Brownfields Site Assessment and Voluntary Cleanup Programs (VCP) may provide valuable assistance to you in this project. These programs involve environmental site assessment in accordance with accepted industry and financial institution standards for property transfer. For specific information about these programs and eligibility, please contact the Land Restoration Program at (410) 537-3437.

Ms. Sarah Williamson & Ms. Heather Lowe

May 13, 2021

Page 3

State Application Identifier: **MD20210223-0132**

6. Borrow areas used to provide clean earth back fill material may require a surface mine permit. Disposal of excess cut material at a surface mine may require site approval. Contact the Mining Program at (410) 537-3557 for further details.
7. If a project receives federal funding, approvals and/or permits, and will be located in a nonattainment area or maintenance area for ozone or carbon monoxide, the applicant needs to determine whether emissions from the project will exceed the thresholds identified in the federal rule on general conformity. If the project emissions will be greater than 25 tons per year, contact Brian Hug, Air and Radiation Management Administration, at (410) 537-4125 for further information regarding threshold limits.
8. Additional comments from the Water and Science Administration were emailed to Sylvia Mosser [enclosed].”

Harford County found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments, as follows: “It is difficult to provide detailed comments with respect to wells and septic until an actual crossing location in Harford County is more defined.”

The Maryland Department of Planning (Transportation Planner) stated that their finding of consistency is contingent upon the applicant taking the actions summarized below.

“Based on the review of the Tier 1 Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study (the BCS), the Maryland Department of Planning (MDP) recognizes that among the Corridor Alternatives Retained for Analysis (i.e., No-Build Alternative, Corridor Alternatives 6, 7, and 8), Corridor 7 would best meet the purpose and needs of the BCS. As compared to Corridor 6 and 8, Corridor 7 would likely have lower overall environmental impacts including lower adverse indirect & cumulative impacts on land uses and associated socioeconomic and natural resources. MDP strongly supports that the recommendation that a future Tier 2 Bay Crossing NEPA [National Environmental Policy Act] study would further evaluate TSM/TDM [Transportation System Management/Transportation Demand Management] measures including exploring pedestrian and bicycle access, the Bus Rapid Transit, and Ferry Service as part of the preferred corridor alternative recommended by this Tier 1 Bay Crossing NEPA study. If the Tier 1 Bay Crossing NEPA study concludes with the selection of Corridor 7 for a future Tier 2 NEPA study, MDP would like to continue working with the Maryland Transportation Authority (MDTA) to help address potential induced growth and land use impacts. MDP provided MDTA with detailed comments on the DEIS through the Tier 1 NEPA process on May 5, 2021. Please note that as a participating agency for the Tier 1 Bay Crossing NEPA process, MDP attends interagency coordination meetings and provides input at every milestone stage of the study process including the review of the DEIS.”

The Maryland Historical Trust stated that their finding of consistency is contingent upon the applicant taking the following actions: “We look forward to working with FHWA [Federal Highway Administration] to complete the requirements of Section 106 for this undertaking.”

Kent County stated that their finding of consistency is contingent upon the applicant taking the following actions, “With the release of the Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study Tier 1 NEPA, the County would like to reaffirm its continued opposition to any proposal for a north Bay Bridge crossing with a terminus in Kent County. The County's position in this regard is based on its long-standing Comprehensive Plan strategies dating back to 1974 and its affiliated Land Use designations.”



Ms. Sarah Williamson & Ms. Heather Lowe  
May 13, 2021  
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State Application Identifier: **MD20210223-0132**

Queen Anne's County stated that their finding of consistency is contingent upon the applicant taking the following actions:

"The Tier I NEPA Study, as the first step in the planning process, only identifies a 2-mile-wide corridor where a future crossing may go. The next step in the planning process is a Tier II NEPA study to review potential bridge and road alignments and the associated impacts within the corridor. All of the details related to new bridge and highway improvements, such as the specific location, number of lanes, highway widening, right of way acquisition, integration with existing roads and bridges, will be part of the Tier II study. This leaves many aspects related to a future bay crossing undecided. Therefore, with significant details to be considered during future study, Queen Anne's County must be included as a decision maker in [the] future Tier II NEPA process. This is vital to protect the interest of citizens, businesses, commuters, emergency services, and commerce of Queen Anne's County. Specifically, the County would like to ensure that its standing plans, codes, and guiding policy documents are considered in greater detail during the Tier II NEPA process. These documents include but are not limited to the following:

- Comprehensive Plan, Appendix 4 (Master Roadway and Transportation System), Sustainable Growth Management Strategy, Transportation Element (Guiding Principles, Vision, and Objectives)
- Community Plans
- Kent Island Transportation Plan
- Sea Level Rise and Coastal Vulnerability Assessment and Implementation Plan (with Vulnerability Viewer)

Recognizing that the tiered NEPA study, design and funding improvements to the Bay Bridge will take time, Queen Anne's County has identified vital interim improvements in the Kent Island Transportation Plan to improve the movement of traffic on Kent Island. The top priority of the many improvements identified in the Kent Island Transportation Plan is to enhance the safety and capacity of Maryland Route 18. The plan specifically identifies the need to initiate comprehensive roadway and pedestrian improvements from Castle Marina Road to the Kent Narrows. As the only alternative route to using Route 50/301 this project will serve to increase mobility and eliminate routine congestion as well as seasonal traffic gridlock. By providing comprehensive bicycle and pedestrian improvements it will also provide residents an alternative to driving. The Tier II NEPA process is not funded therefore it is unknown when the multi-year process would start or be completed. Any new construction resulting in new capacity crossing the bay is many years away. Nonetheless, many highway improvements to meet current and long term demand should be funded and constructed now. With MDTA and FHWA selection of corridor 7, it is essential that this decision be supported with engineering and construction funding for projects currently identified on US 50, US 301, MD 18 and MD 8. It is prudent to begin funding improvements included in the adopted State and Federal transportation planning documents, County Priority Letter and Kent Island Transportation Plan (KITP) which in part include:

- US 50 widening and interchanges on US 50 from US 301 to MD 404 (2040 MD, CTP [Consolidated Transportation Program] & Priority Letter)
- Widening and improvements to MD 18 (Priority Letter, LRTP [Long Range Transportation Plan], KITP, Chapter 30)
- MD 8 widening and Interchange Improvements (KITP)(LRTP)
- Construct at grade intersection safety improvements on the US 301 corridor (Priority Letter)
- US 50 & Dundee Road Overpass on Kent Island (KITP)"

The State Application Identifier Number must be placed on any correspondence pertaining to this project.

Ms. Sarah Williamson  
May 13, 2021  
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State Application Identifier: **MD20210223-0132**

Please remember, you must comply with all applicable state and local laws and regulations. If you need assistance or have questions, contact the State Clearinghouse staff person noted above at 410-767-4490 or through e-mail at [sylvia.mosser@maryland.gov](mailto:sylvia.mosser@maryland.gov).

Thank you for your cooperation with the MIRC process.

Sincerely,



Myra Barnes, Lead Clearinghouse Coordinator

MB:SM  
Enclosures—MDE Additional Comments & Talbot County Comment Letter  
cc:

Tony Redman - DNR  
Amanda Redmiles - MDE  
Tanja Rucci - DGS  
Ian Beam - MDOT  
William Mackey - KENT  
Miguel Salinas - TLBT

Herve Hamon - DRCH  
Stephen O'Connor - CECL  
Krystle Patchak - BLCO  
Stephen Walker - ANAR  
Tamara Blake - CLVT  
Jennifer Freeman - HRFD

Amy Moredock - QANN  
Ralph Taylor - SMST  
Bill Hunt - STMA  
Todd Lang - BMC  
John Hartline - TCCSMD  
Bihui Xu - MDPI-T

David Dahlstrom - MDPLU  
Tracey Gordy - MDPLL  
Joseph Griffiths - MDPL  
Beth Cole - MHT

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**Draft Environmental Impact Statement (DEIS): Tier 1 National Environmental Policy Act**  
**Chesapeake Bay Crossing Study as a First Step to Address Existing and Future**  
**Maryland Department of the Environment – WSA/IWPP**

**REVIEW FINDING: R1 Consistent with Qualifying Comments**  
**(MD2021 0223-0132)**

**Direct any questions regarding the Antidegradation Review to Angel Valdez via email at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov), or by phone at 410-537-3606.**

Special protections for high-quality waters in the local vicinity, which are identified pursuant to Maryland's anti-degradation policy.

**Anti-degradation of Water Quality:** Maryland requires special protections for waters of very high quality (Tier II waters). The policies and procedures that govern these special waters are commonly called "anti-degradation policies." This policy states that "proposed amendments to county plans or discharge permits for discharge to Tier II waters that will result in a new, or an increased, permitted annual discharge of pollutants and a potential impact to water quality, shall evaluate alternatives to eliminate or reduce discharges or impacts." Satisfactory completion of the Tier II Antidegradation Review is required to receive numerous State permits, such as those for wastewater treatment, nontidal wetlands disturbance, waterways construction, and coverage under the general construction permit.

The Tier II review is applicable to all portions of the whole and complete project within the Tier II watersheds of **Island Creek 1, E Fork Langford Creek UT 1, Red Lion Branch 1, Southeast Creek 2, Granny Finley Branch 1, Three Bridges Branch 1 and Lyons Creek 3. Corridor Alternatives 2, 3, 4, 5, 9 and 10 intersect one or more of these watersheds. Depending on the final alternative chosen and alignment of the corridor, other Tier II watersheds could be impacted.** The review is, at a minimum, a two-step alternatives analysis process. The initial analysis considers if the activity can avoid any impacts to Tier II waters (alternative site or potentially by strategic design). The second analysis considers minimization alternatives to limit associated water quality degradation. This includes BMP considerations for erosion and sediment controls, mitigation for net loss of vital resources such as forest cover, and justification for unavoidable impacts. Under certain circumstances, MDE may require a third analysis which justifies the project based on social or economic rationale.

MDE is revising the overall Tier II review procedures by creating or updating forms to assist with the no-discharge alternatives analysis, minimization analysis,



temporary impacts, and social and economic justification. Completion of these forms is required for permitting and other approvals.

Tier II No-Discharge Analysis Form V1.2:<sup>1</sup>

1. Code of Maryland Regulations (COMAR) 26.08.02.04-1 (G(1)) states that "If a Tier II antidegradation review is required, the applicant shall provide an analysis of reasonable alternatives that do not require direct discharge to a Tier II water body (no-discharge alternative). The analysis shall include cost data and estimates to determine the cost effectiveness of the alternatives".
2. For land disturbing projects that result in permanent land use change, this 'no discharge' analysis specifically evaluates the reasonability of other sites or alternate routes which could be developed to meet the project purpose, but are located *outside* of the Tier II watershed. Reasonability considerations, as applicable, may take into account property availability, site constraints, natural resource concerns, size, accessibility, and cost to make the property suitable for the project.
3. This analysis shall be performed regardless of whether or not the applicant has ownership or lease agreements to a preferred property or route.

Tier II Minimization Alternative Analysis Form V1.1:<sup>2</sup>

1. Code of Maryland Regulations (COMAR) 26.08.02.04-1 (G(3)) states that "If the Department determines that the alternatives that do not require direct discharge to a Tier II water body are not cost effective, the applicant shall: (a) Provide the Department with plans to configure or structure the discharge to minimize the use of the assimilative capacity of the water body".
2. This form helps to ensure that water quality impacts due to the proposed project are comprehensively identified, minimized, mitigated, and justified.
3. To demonstrate that appropriate minimization practices have been considered and implemented, applicants must identify any minimization practices used when developing the project, calculate major Tier II resource impacts, consider alternatives for impacts, and adequately justify unavoidable impacts. Further water quality impact minimization such as mitigation or out-of-kind offsets may be required.

Construction Stormwater Antidegradation Checklist - Version 1.1 :<sup>3</sup>

<sup>1</sup> [https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII\\_NoDischargeAnalysis\\_Form\\_1.2.pdf](https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_NoDischargeAnalysis_Form_1.2.pdf)

<sup>2</sup> [https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII\\_Minimization\\_Form\\_1.1.pdf](https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/TierII_Minimization_Form_1.1.pdf)

<sup>3</sup> <https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier-II-Forms/AntiDegradation%20Checklist%20V1.1.pdf>



1. This form replaces the Tier II checklist, *Enhanced Best Management Practices for Tier II Waters*, distributed in the past.
2. To complete the checklist, applicants are required to coordinate with the County or appropriate approval authority when developing construction plans and stormwater management plans.
3. Applicants are required to provide this form when seeking a NOI/DOI for coverage under the general construction permit. Other forms and documentation materials shall also be uploaded to the general construction permit site at this time.

**Island Creek 1, E Fork Langford Creek UT 1, Red Lion Branch 1, Southeast Creek 2, Granny Finley Branch 1, Three Bridges Branch 1 and Lyons Creek 3, which are located within the vicinity of the Project, have been designated as Tier II streams. The Project is within the Catchment (watershed) of the segments. (See attached map).**

Currently, there is no assimilative capacity in the following watersheds, **Red Lion Branch 1, Granny Finley Branch 1, and E Fork Langford Creek UT 1**. This means that recent data indicates that sometime after designation, the Tier II stream segment has degraded. Therefore, additional social and economic justification is needed. The SEJ is primarily a narrative that justifies the unavoidable impacts to water quality identified by the minimization alternatives analysis. A general outline of information required to complete the SEJ has been provided.

Planners should be aware of legal obligations related to Tier II waters described in the Code of Maryland Regulations (COMAR) 26.08.02.04 with respect to current and future land use plans. Information on Tier II waters can be obtained online at: <http://www.dsd.state.md.us/comar/comarhtml/26/26.08.02.04.htm> and policy implementation procedures are located at <http://www.dsd.state.md.us/comar/comarhtml/26/26.08.02.04-1.htm>

Planners should also note as described in the Code of Maryland Regulations (COMAR) 26.08.02.04-1(C), "Compilation and Maintenance of the List of High Quality Waters", states that "When the water quality of a water body is better than that required by water quality standards to support the existing and designated uses, the Department shall list the water body as a Tier II water body. *All readily available information may be considered to determine a listing. The Department shall compile and maintain a public list of the waters identified as Tier II waters.*"

The public list is available in PDF from the following MDE website:  
[http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier\\_II\\_Updates/Antidegradation-Tier-II-Data-Table.pdf](http://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Documents/Tier_II_Updates/Antidegradation-Tier-II-Data-Table.pdf).

The interactive Tier II webmap is located at the following website:  
(<https://mdewin64.mde.state.md.us/WSA/TierIIWQ/index.html>).

Direct any questions regarding the Antidegradation Review to Angel Valdez via email at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov), or by phone at 410-537-3606.

## **ADDITIONAL COMMENTS**

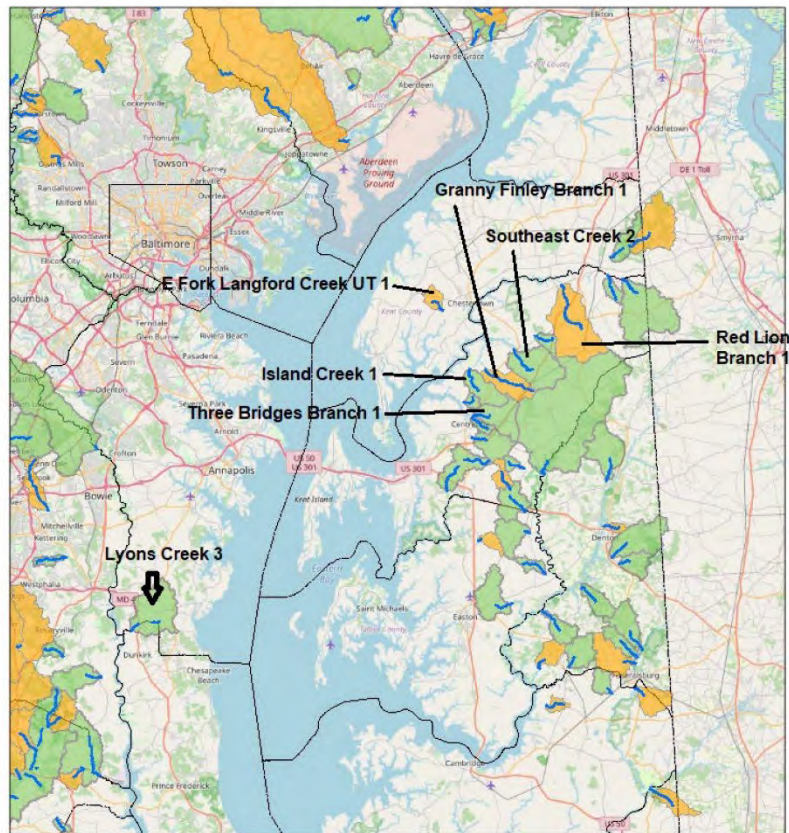
### **Stormwater**

Planners should consider all Maryland Stormwater Management Controls and during Site Design the planner should consider all Environmental Site Design to the Maximum Extent Practicable and “Green Building” Alternatives. Designs that reduce impervious surface and BMPs that increase runoff infiltration are highly encouraged.

Further Information:  
<https://mde.maryland.gov/programs/Water/SSDS/Pages/index.aspx>

Redevelopment Regulations:  
<http://www.dsd.state.md.us/comar/comarhtml/26/26.17.02.05.htm>

MD20210223-0132



3/23/2021, 8:46:26 AM

Tier II Catchments 2016

- Assimilative Capacity Remaining
- No Assimilative Capacity Remaining
- Tier II Stream Segments 2016
- Maryland County Boundaries

1:807,303  
0 5 10 20 mi  
0 5 10 20 km

© OpenStreetMap (and) contributors, CC-BY-SA, Imagery © Mapbox, MDE  
MDE | Creator: Maryland Department of the Environment, Water and Science Administration (MDE WSA) | MDE WSA

Web AppBuilder for ArcGIS  
MDE | Creator: Maryland Department of the Environment, Water and Science Administration (MDE WSA) | MDE WSA | MDE WSA | MDE WSA



### Construction Stormwater Antidegradation Checklist – Version 1.1

This checklist is intended to be used as guidance for evaluating any portion of your construction site that is located with a watershed that is identified by the Department<sup>1</sup> or the EPA, as a Tier II for antidegradation purposes. This Checklist<sup>2</sup> is acceptable for use in documenting your antidegradation review and ensuring protection of Tier II resources during construction. This form, or other appropriate written evaluation, may be uploaded with your NOI or provided to the Industrial Stormwater Permits Division at the Maryland Department of the Environment. The information provided to the Department addressing the antidegradation review shall be clearly marked on the erosion and sediment control (E&SC) plan and approved by the appropriate approval authority pursuant to COMAR 26.17.01.

<b>Project Name:</b> _____ <b>General Permit Number (MD):</b> _____ <b>OR, if not available,</b> <b>County or State ESC Plan Identifier:</b> _____ <b>County:</b> _____ <b>Site Map #</b> _____ <b>Parcel #</b> _____ <b>Applicant Signature:</b> _____ <b>Date Complete:</b> _____	
<b>Do all Tier II watersheds impacted by the proposed activity have assimilative capacity<sup>(1)</sup>?</b> If the proposed activity is to a stream segment which doesn't have assimilative capacity, you will need to consult with the Department's Tier II staff on available options and list the findings here. Comments: _____ _____ _____	<b>Yes/No</b>
<b>Were any waivers granted by the Approval Authority for stormwater controls for this project?</b> For projects in Tier II watersheds, waivers need to be fully justified in light of the potential to impact water quality. A waiver that was granted that could lead to degradation would require modeling or other evidence that the lack of stormwater controls will not impact the receiving waters.	<b>Yes/No</b>
<b>Verify whether you will meet the following minimum Stabilization Criteria.</b> After initial soil disturbance or redistribution, permanent (2011 ESC Handbook Section B-4-5) or temporary (2011 ESC Handbook Section B-4-4) stabilization is required within: <ul style="list-style-type: none"> <li>i. Three (3) calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and</li> <li>ii. Seven (7) calendar days as to all other disturbed areas on the project site except for those areas under active grading.</li> </ul>	<b>Yes/No</b>

<sup>1</sup> Use the interactive Tier II webmap located at:

<https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Pages/HighQualityWatersMap.aspx> to assist you. On the map, Tier II watersheds colored orange have NO assimilative capacity.

<sup>2</sup> Alternative forms may be approved by the Department, if they contain the information in this checklist.



Antidegradation Checklist – Version 1.1 5/19/2020

Appendix C: Page 2 of 4

<p><b>Verify Increased Inspection Frequency for activity within Tier II Watershed.</b> For any portion of the site that discharges to a water that is identified by the Department as Tier II for antidegradation purposes, more frequent inspections are beneficial. Will you inspect at least once every four (4) calendar days?</p>	<p>Yes/No</p>
<p><b>Verify Piles are located outside the Stream Protection Zone.</b> For stockpiles or land clearing debris piles composed, in whole or in part, of sediment and/or soil (2011 ESC Handbook Section B-4-8), locate the piles outside of any Stream Protection Zones.</p>	<p>Yes/No</p>
<p><b>Were there any E&amp;SC exemptions to the requirements for Protections in the Stream Protection Zone below?</b> Note: The list of potential exemptions are listed at the end of this checklist. If exemptions were applicable make sure to include them in the plan.  Comments: _____ _____ _____</p>	<p>Yes/No</p>
<p><b>Have you Verified your Stream Protection Zone Considerations below?</b> All additional controls selected in Compliance Alternative 2, to meet the Stream Protection Zone Considerations below shall be clearly marked on the erosion and sediment control (E&amp;SC) plan and approved by the appropriate approval authority pursuant to COMAR 26.17.01. You are required to document in your E&amp;SC plan where the natural buffer width that is retained (where you are implementing alternative 1 below) and you must document the reduced width of the buffer you will be retaining and document the additional erosion and sediment controls you will use (where you will be implementing alternative 2 below).  Comments: _____ _____ _____</p>	<p>Yes/No</p>
<p><b>Stream Protection Zone Alternative 1:</b> Provide and maintain an undisturbed natural buffer within the Stream Protection Zone (an average of 100 feet from edge of stream). Comments: _____ _____ _____</p>	<p>Yes/No</p>
<p><b>Stream Protection Zone Alternative 2:</b> Provide and maintain an undisturbed natural buffer that is less than an average of 100 feet and is supplemented by additional erosion and sediment controls. The acceptable additional erosion and sediment controls include, but are not limited to, those listed in the 2011 ESC Handbook. Those controls are accelerated stabilization, redundant controls, upgraded controls, passive or active chemical treatment, or a reduction in the size of the grading unit. These options are provided below, which are the controls that must be considered and, once selected, implemented when construction activity occurs within these Stream Protection Zones. The local approval authorities may provide additional options that provide similar protection. Check each that apply below. Comments: _____ _____ _____</p>	<p>Yes/No</p>

Antidegradation Checklist – Version 1.1 5/19/2020

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<p><input type="checkbox"/> <b>a: Accelerated Stabilization Requirements</b></p> <p>Earth disturbance must be stabilized as soon as possible and as dictated by the approved plan (e.g., seed and mulch, soil stabilization matting, rip rap, sod, pavement):</p> <ul style="list-style-type: none"> <li>• At a minimum, all perimeter controls (e.g., earth dikes, sediment traps) and slopes steeper than 3:1 require stabilization within three calendar days and all other disturbed areas within seven calendar days</li> <li>• Accelerated stabilization (e.g., same day stabilization) may be required based on site characteristics or as specified by the approval authority</li> </ul> <p>Comments: _____</p>
<p><input type="checkbox"/> <b>b: Redundant Controls</b></p> <p>Runoff must pass through two sediment control devices in series. The following are examples of possible combinations:</p> <ul style="list-style-type: none"> <li>• When dewatering sump areas or sediment traps or basins, discharge sediment laden water first to a portable sediment tank and then a filter bag</li> <li>• Install parallel rows of a perimeter filtering control or a combination thereof of silt fence, super silt fence, and filter logs (e.g., two rows of parallel silt fence or a row of filter log parallel to a row of super silt fence)</li> </ul> <p>Comments: _____</p>
<p><input type="checkbox"/> <b>c: Upgrade Controls</b></p> <p>The following are examples of possible upgrades:</p> <ul style="list-style-type: none"> <li>• Upgrade from silt fence to super silt fence</li> <li>• Upgrade from temporary stone outlet structure to temporary gabion outlet structure</li> <li>• Upgrade all sediment traps and basins to control additional storage volume; increase the required storage volume from 3,600 cubic feet/acre to 5,400 cubic feet/acre</li> <li>• Upgrade standard inlet protection type A to type B and at grade inlet protection to gabion inlet protection</li> </ul> <p>Comments: _____</p>
<p><input type="checkbox"/> <b>d: Passive or Active Chemical Treatment</b></p> <p>The use of chemical additives requires permit coverage and considerations related to potential aquatic toxicity. <a href="https://mdewwp.page.link/ChemAddReview">https://mdewwp.page.link/ChemAddReview</a>.</p> <p>Comments: _____</p>

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<input type="checkbox"/>	<p><b><i>e: Reduction in the Size of the Grading Unit</i></b></p> <ul style="list-style-type: none"> <li>Require grading unit limitations to 10 acres of earth disturbance inside the Stream Protection Zone</li> <li>Require grading unit limitations to 20 acres for any earth disturbance that is adjacent to and contiguous with earth disturbances inside the Stream Protection Zone</li> </ul> <p>Comments: _____</p>
<input type="checkbox"/>	<p><b><i>f: Prerogative of Approval Authorities</i></b></p> <p>The additional controls described above for projects in Stream Protection Zones are examples of accelerated stabilization, redundant controls, upgraded controls, passive or active chemical treatment, or a reduction in the size of the grading unit. Approval authorities may use these examples as a guide when approving projects, but may also apply further erosion and sediment control measures based on local site conditions and best professional judgement.</p> <p>Comments: _____</p>

**Exemptions to the requirements for Protections in the Stream Protection Zone:**

- The following disturbances within the Stream Protection Zone are exempt from the requirements this guidance:- Construction approved under a CWA Section 404 permit; or- Construction of a water-dependent structure or water access areas (e.g., pier, boat ramp, trail).
- If there is no discharge of stormwater to Waters of this State through the area between the disturbed portions of the site and receiving waters, you are not required to comply with the requirements in this guidance. This includes situations where you have implemented controls measures, such as a berm or other barrier, which will prevent such discharges.
- Where no natural buffer exists due to preexisting development disturbances (e.g., structures, impervious surfaces) that occurred prior to the initiation of planning for the current development of the site, you are not required to comply with the requirements in this guidance.

Where some natural buffer exists but portions of the area within the Stream Protection Zone are occupied by preexisting development disturbances, you are required to comply with the requirements in this guidance. Clarity about how to implement the compliance alternatives for these situations is provided upon request from the Department.

- For “linear construction sites” , you are not required to comply with this requirement if site constraints (e.g., limited right-of-way) make it infeasible to implement one of the above compliance alternatives, provided that, to the extent feasible, you limit disturbances within Stream Protection Zone. You must also document in the Checklist your rationale for why it is infeasible for you to implement one of the above compliance alternatives, and describe any buffer width retained and supplemental erosion and sediment controls installed.



MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)



Maryland Department of the Environment  
Antidegradation Review Report Form  
**Alternatives Analysis – Minimization Alternatives**



**Purpose**

This form is designed to help applicants assemble a complete Tier II Review report. This form specifically addresses calculating Tier II resource impacts, and evaluating alternatives that minimize water quality degradation from unavoidable impacts to Tier II watersheds and streams. This analysis is applicable to all areas of the **whole and complete project** within a Tier II watershed.

The Department will use this information to determine whether or not the applicant evaluated all reasonable alternatives to minimize water quality degradation. MDE may provide additional comments, conditions, or requirements, during the course of the review.

**Fill in all that apply:**

1. **Project Name:** \_\_\_\_\_
2. **County ESC Plan Identifier:** \_\_\_\_\_
3. **Nontidal Wetlands & Waterways Construction Tracking Number: 20206\_\_\_\_\_**
4. **General Permit Number:** \_\_\_\_\_
5. **Other Application Type and Number:** \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_ **Date Complete:** \_\_\_\_\_

**Background**

Code of Maryland Regulations (COMAR) 26.08.02.04-1 (G(3)) states that "If the Department determines that the alternatives that do not require direct discharge to a Tier II water body are not cost effective, the applicant shall: (a) Provide the Department with plans to configure or structure the discharge to minimize the use of the assimilative capacity of the water body".

To demonstrate that appropriate minimization practices have been considered and implemented, applicants must identify any minimization practices used when developing the project, calculate major Tier II resource impacts, consider alternatives for impacts, and adequately justify unavoidable impacts. Further water quality impact minimization such as mitigation or out-of-kind offsets may be required.

Additionally, applicants are required to coordinate with the County or appropriate approval authority when developing construction plans, and incorporate additional practices as indicated by the guidance provided in the *Construction Stormwater Antidegradation Checklist*. This checklist, as well as the other portions of the Tier II Review Report are required prior to receiving many permits and authorizations from MDE.



MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

**Instructions and Notes**

1. Review all of the information in this document carefully. Prepare a report to address all of the analysis required by this document. Submit all Tier II analysis and documentation together.
2. Do not leave any response blank. Please mark "N/A" for any questions or sections that are not applicable until you reach the end of the document.
3. Provide sufficient supporting documentation for narratives.
4. The level of analysis necessary, and amount of documentation that may be needed to determine if impacts have been adequately addressed, is dependent upon project size, scope, and scale of relative impacts to Tier II resources. Please develop responses accordingly.
5. Reports/responses shall be submitted in electronic format, as well as paper. Full plans are not required unless requested over the course of the review.
6. Direct any questions regarding this form to Angel Valdez at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov), or by phone at 410-537-3606.

**Minimization Alternative Analysis Final Documentation Checklist**

- ☐ Signature & Date MDE Tier II Alternatives Analysis – Minimization Alternative form (page 1)
- ☐ Resource Impact Analysis (**Complete the analysis for each Tier II watershed affected**)
  - ☐ Tier II Stream Buffer Impacts
    - Impact Calculation
    - Impact Minimization
    - Impact Mitigation
    - Impact Justification
    - Stream Buffer Exhibit
  - ☐ Forest Cover Impacts
    - Impact Calculation
    - Impact Minimization
    - Impact Mitigation
    - Impact Justification
    - Forest Cover Exhibit
  - ☐ Impervious Cover
    - Impact Calculation
    - Impact Minimization
    - Impact Mitigation
    - Impact Justification
    - Impervious Cover Exhibit
  - ☐ Mitigation & Other Potential Requirements
    - Plans
    - Signature & Date (Page 8)
- ☐ Construction Stormwater Antidegradation Checklist

MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

Tier II Resource Impacts
<p>Sufficient riparian buffers, ample watershed forest cover, and lower levels of impervious cover are essential to maintaining high quality waters. This project may permanently reduce riparian buffers and forest cover, or increase impervious cover within Tier II watersheds leading to a decrease in water quality. Depending upon project specific impacts, MDE may require monitoring, additional BMPs, expanded buffers in Table 1, and other studies prior to approval. This analysis is applicable to all areas of the <b>whole and complete project</b> within a Tier II watershed.</p> <p>MDE will use the following information to determine <b>permanent</b> impacts to Tier II watershed resources. Complete the analysis for <u>each</u> Tier II watershed the proposed project may impact.</p>

A. Tier II Stream Buffers
<p><b>1. Instructions:</b></p> <ul style="list-style-type: none"> <li>a. If no stream buffer impacts are proposed (within 100' of stream), mark this section N/A and proceed to Section B, Forest Cover.</li> <li>b. Insert the Tier II watershed name at the top of each box.</li> <li>c. "Impacted" stream segments are those disrupted by road crossings, other infrastructure, construction (ex. sewer lines), or otherwise buried</li> <li>d. Calculate buffer averages for 2(f) below on a stream segment-by-segment basis.</li> <li>e. Explain in detail alternatives considered, and any actions taken</li> </ul>

A. Tier II Stream Buffers - - Tier II Watershed: _____		
2. Calculation of Permanent Riparian Buffer Impacts to State Regulated Waters	Linear Feet +/-	
	LEFT Bank	Right Bank
a. Combined length of on-site stream segments:		
b. Combined length of <u>EXISTING</u> , pre-development, impacted stream segments:		
c. Combined length of <u>PROPOSED</u> , post-development, impacted stream segments:		
d. Total post-development <u>impacted</u> stream segments 2(b) + 2(c) =		
e. Total post-development <u>unimpacted</u> stream segments 2(a) - 2(d) =		
f. Combined length of streams, post-development, with an average 100' buffer, based on the value in 2(e):		
g. Potential Tier II Buffer Impacts 2(e) - 2(f) =		

MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

<b>A. Tier II Stream Buffers - - Tier II Watershed:</b> _____
<b>3. Buffer Impact Minimization:</b>
Evaluate on-site alternatives for buffer impacts for segments identified in 2(g). Examples include minimizing ROW, narrowing paths, alternate routes for walkways, roads, crossings, etc. to avoid buffer impacts.
<b>4. Buffer Impact Mitigation:</b>
Mitigation or offsets can occur both on and off-site. On-site, the intent is to achieve a 100' average stream buffer width.  Per segment, locate areas where impacts to the 100' buffer are unavoidable. Include those impacts in the mitigation/offset alternatives analysis. Conditions under section D shall apply. <ul style="list-style-type: none"> <li>a) Evaluate on-site alternatives to identify areas where buffers could be expanded beyond the minimum 100' to offset areas of unavoidable buffer width constraints.</li> <li>b) If there are no on-site areas, evaluate off-site areas, within the Tier II watershed, where buffers could be improved, expanded, or established.</li> </ul>
<b>5. Buffer Impact Justification:</b>
If there are any remaining unavoidable impacts, provide narrative justification and supporting documentation for impacts. Reasons may include existing infrastructure, clearance necessary to comply with regulation, no alternative location for stormwater management, property boundary, etc.
<b>6. Buffer Exhibit</b>
Prepare a Tier II Buffer Exhibit for on-site streams. Dependent upon the number of segments, multiple sheets (8 1/2" by 11") may be used. On an overview, label each segment (a, b, c...) and provide a tabular summary, per bank-segment (e.g., left bank of segment a), of average buffer width.  In addition to on-site streams, the exhibit shall display the following information: <ul style="list-style-type: none"> <li>• 100- foot riparian buffer. (symbolize with a line)</li> <li>• Areas where the post-construction stream buffer are +/- 100 feet. (symbolize with shading, hatches, or dots, etc.)</li> <li>• On-site areas where buffers could be maintained at a distance of greater than a 100' if there are unavoidable constraints in some locations. (symbolize with shading, hatches, or dots, etc.)</li> </ul>

**Table 1: Expanded Tier II Riparian Buffer**

Adjusted Average Optimal Buffer Width Key (in Feet)				
	Slopes (%)			
Soils	0-5%	5-15%	15-25%	>25%
ab	100	130	160	190
c	120	150	180	210
d	140	170	200	230



MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

<b>B. Tier II Forest Cover</b>
<b>1. Instructions:</b> <ul style="list-style-type: none"> <li>a. If there is no net forest cover loss within the impacted Tier II watershed, mark this section N/A and proceed to Section C, Impervious Cover.</li> <li>b. Insert the Tier II watershed name at the top of each box.</li> <li>c. "Potential Constraints" include forest loss due to ROW, property boundaries, regulatory requirements, etc.</li> <li>d. Explain in detail alternatives considered, and any actions taken</li> </ul>

<b>B. Tier II Forest Cover - - Tier II Watershed:</b> _____	
<b>2. Calculation of Permanent Forest Cover Impacts</b>	<b>Acres +/-</b>
a. Total on-site forest cover, <u>EXISTING</u> :	
b. Total on-site forest cover, <u>POST-PROJECT</u> :	
c. Total off-site reforestation or restoration, <u>IN the Tier II Watershed listed above</u> :	
d. Permanent forest loss due to <u>potential constraints</u> :	
e. Total forest cover retained in Tier II Watershed $2(b) + 2(c) =$	
f. Total forest cover loss in Tier II Watershed $2(e) - 2(a) =$	

<b>B. Tier II Forest Cover - - Tier II Watershed:</b> _____
<b>3. Forest Cover Loss Minimization</b>
If 2(d) is greater than 0, or if 2(f) is a negative value, evaluate on-site alternatives for forest cover impact minimization. Examples include minimizing ROW, alternate routes for roads, crossings, etc. to avoid forest cover impacts.
<b>4. Forest Cover Loss Mitigation</b>
To achieve no net negative impact as a result of the proposed activity, the applicant shall consider alternatives to mitigate impacts 'in-kind', for forest cover loss, to the maximum extent economically feasible. Provide additional information regarding the value in 2(c). Once those options are exhausted, applicants shall evaluate out-of-kind alternatives <u>within the Tier II watershed</u> that will help offset water quality impacts. These out-of-kind alternatives include impervious cover disconnection or retrofits, stream restoration, buffer enhancement, etc.
<b>5. Forest Cover Loss Justification</b>
If there are any remaining unavoidable impacts to forest cover, provide narrative justification and supporting documentation for impacts. Reasons may include existing infrastructure, clearance necessary to comply with regulation, no alternative location for stormwater management, property boundary, etc.
<b>6. Forest Cover Exhibit</b>
On an 8 1/2" by 11" sheet(s), prepare an on-site Tier II Forest Cover Exhibit. Using varying symbology, show a basic site layout relative to 2(a), 2(b), and 2(d) above. Prepare a separate exhibit regarding any off-site reforestation, or out-of-kind mitigation opportunities in accordance with Section D.

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MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

C. Impervious Cover	
<b>1. Instructions:</b> a. If ESD is used to treat all new, on-site, post-construction stormwater, mark this section N/A and proceed to Section D, Mitigation and Other Potential Requirements. b. Insert the Tier II watershed name at the top of each box. c. Explain in detail alternatives considered, and any actions taken.	
<b>C. Tier II Impervious Cover - - Tier II Watershed:</b> _____	
<b>2. Calculation of Impervious Cover Increase</b>	<b>Acres +/-</b>
a. Total additional (new) impervious cover, <u>POST-PROJECT</u> :	
b. Total additional (new) impervious cover treated with ESD practices, <u>POST PROJECT</u> :	
c. Total impervious cover not treated with ESD practices, <u>POST-PROJECT</u> : $2(a) - 2(b) =$	
<b>C. Tier II Impervious Cover - - Tier II Watershed:</b> _____	
<b>3. Impervious Cover Minimization</b> If 2(c) is greater than 0, evaluate on-site alternatives for impervious cover impact minimization by identifying additional areas where ESD stormwater management practices can be utilized.	
<b>4. Impervious Cover Offsets</b> Add the area-acres of remaining unavoidable impervious cover increases (not treated with ESD) to the total targeted for mitigation under Section B(4). Increases such as these can be mitigated with forest cover restoration/afforestation, or through off-site mitigation alternatives such as impervious cover disconnection or retrofits, stream restoration, buffer enhancement, etc.	
<b>5. Impervious Cover Justification</b> If there is any remaining unavoidable addition of impervious surface acreage (not treated with ESD) and which is not offset, provide narrative justification and supporting documentation for impacts. Reasons may include existing infrastructure, clearance necessary to comply with regulation, no alternative location for stormwater management, property boundary, etc.	
<b>6. Impervious Cover Exhibit</b> On an 8 1/2" by 11" sheet(s), prepare an on-site Tier II Impervious Cover Exhibit. Using varying symbology, show a basic site layout relative to 2(a), 2(b), and 2(c) above. Prepare a separate exhibit regarding any off-site reforestation, or out-of-kind mitigation opportunities in accordance with Section D.	



MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

D. Tier II Mitigation and Other Potential Requirements
<p><b>1. If mitigation is necessary:</b></p> <ul style="list-style-type: none"> <li>a. In-kind mitigation shall occur at a target ratio of 1:1.</li> <li>b. In order to satisfy the requirements of the Antidegradation Review, an applicant must demonstrate that they have conducted a robust alternatives analysis, <u>including mitigation</u> as a means for additional minimization of unavoidable impact to Tier II resources.</li> <li>c. MDE strongly recommends pre-application meetings.</li> <li>d. Regardless of application status, prepare preliminary analysis, including: <ul style="list-style-type: none"> <li>i. Preliminary site search for potential properties</li> <li>ii. Basic exploration of out-of-kind possibilities, such as restoration, impervious cover retrofit or removal, etc.</li> </ul> </li> <li>e. Mitigation is required for unavoidable net forest cover loss.</li> <li>f. The greater the net loss, the higher the restoration target.</li> </ul>

D. Tier II Mitigation and Other Potential Requirements
<p><b>2. Mitigation Plan Components</b></p> <ul style="list-style-type: none"> <li>a. <u>Statement of unavoidable impacts to Tier II waters.</u> This is total loss calculated in Section A (2)h, Section A(2)i, Section B (2)f, and Section C (2)c. Identify values specifically associates with stream buffers, forest cover, and impervious cover. Tabular totals shall be broken according to resource type and Tier II watershed impacted. The accompanying narrative shall include a summary of why impacts are considered unavoidable.</li> <li>b. <u>Preferred mitigation alternatives analysis within the impacted Tier II watershed.</u> The order of mitigation alternatives is as follows: <ul style="list-style-type: none"> <li>i. In-kind, on-site</li> <li>ii. In-kind, off-site</li> <li>iii. Out-of-kind, on-site</li> <li>iv. Out-of-kind, off-site</li> </ul> </li> <li>c. <u>Mitigation site alternative analysis.</u> Establish site search criteria. All locations must be located within the affected Tier II watershed identified for each unavoidable impact calculated in 2(a). Tabular totals shall include the amount of mitigation/offset selected alternatives achieve. Include maps of each mitigation property.</li> <li>d. <u>Protection Mechanism.</u> Explain the plan proposed to ensure that all areas identified for mitigation shall be protected in perpetuity. Permittees shall be required to provide documentation in the form of covenants, landowner agreements, deed details, etc. as well as financial assurances. This shall be provided no more than 60 days after completion.</li> <li>e. <u>Site Description.</u> Provide site address, name of property if known, map and parcel number, and centroid coordinates in latitude/longitude. Include maps of each mitigation property. Maps shall include natural resources (i.e. existing forest cover, streams, wetlands, etc.), roads, railways, and any other important identifying features. Maps shall include natural resources (i.e. existing forest cover, streams, wetlands, etc.), roads, railways, and any other important identifying features.</li> <li>f. <u>Planting plan:</u> Reforestation shall incorporate optimum vegetation selection guidance provided in the <i>State Forest Conservation Technical Manual, 3rd edition, 1997 by Maryland Department of Natural Resources.</i></li> </ul>



MDE Tier II Alternatives Analysis – Minimization Alternatives V 1.1 (7/9/2020)

**D. Tier II Mitigation and Other Potential Requirements**

**2. Mitigation Plan Components, Continued**

- g. Monitoring Reports. Properties shall be monitored for a minimum of five years to ensure site success. Reports shall provide visuals of establishment progress, as well as narrative descriptions. Include any issues encountered, overcome, and potential changes that may be necessary to meet objectives.

**D. Tier II Mitigation and Other Potential Requirements**

**3. Other Potential Requirements**

- a. pH Monitoring and Corrective Action Plan. Often associated with in-stream grout activities.
- b. Compaction Management Plan. Often associated with linear activities, such as pipelines.
- c. Water Quality Monitoring and Corrective Action Plan. Associated with projects with in-stream impacts.
- d. Biological Monitoring. Project requirement for complex projects with direct or significant impacts.
- e. Hydraulic Analysis. Projects may include direct or significant near-stream disturbances, such as grading, vegetative removal, watershed boundary changes, etc.
- f. Other requirements. To address unique impacts specific to the activity or site.
- g. Social and Economic Justification. Depending upon the scope of impacts to Tier II resources and streams, applicants may be required to provide additional documentation to justify the permitting of an activity that will degrade Tier II streams, on a socio-economic basis.

**Applicant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Provide a hardcopy responses to:

Maryland Department of the Environment  
Environmental Assessment and Standards Program  
Antidegradation Implementation Coordinator  
ATTN: Angel D. Valdez  
1800 Washington Blvd  
Baltimore, Maryland 21230

Provide an electronic response, by CD to the address above, or a way to download the response from secure cloud-based site, email: to Angel Valdez at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov).

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)



Maryland Department of the Environment

Antidegradation Review Report Form  
**Alternatives Analysis - No Discharge Alternative**



**Purpose**

This form is designed to help applicants assemble a complete Tier II Review report. This form specifically addresses evaluating alternatives that avoid impacts to Tier II watersheds and streams. It is strongly recommended that applicants complete this analysis as early in the project planning stages as possible, during initial property site search and screening analysis of purchase and feasibility alternatives.

The Department will use this information to determine whether or not an adequate alternatives analysis was conducted, and to help determine if a reasonable alternative to the proposed activity is available. MDE may provide additional comments during the course of the review.

**Fill in all that apply:**

1. **Project Name:** \_\_\_\_\_
2. **County ESC Plan Identifier:** \_\_\_\_\_
3. **Nontidal Wetlands & Waterways Construction Tracking Number: 20206\_ \_ \_ \_**
4. **General Permit Number:** \_\_\_\_\_
5. **Other Application Type and Number:** \_\_\_\_\_

**Applicant Signature:** \_\_\_\_\_ **Date Complete:** \_\_\_\_\_

**Background**

Code of Maryland Regulations (COMAR) 26.08.02.04-1 (G(1)) states that "If a Tier II antidegradation review is required, the applicant shall provide an analysis of reasonable alternatives that do not require direct discharge to a Tier II water body (no-discharge alternative). The analysis shall include cost data and estimates to determine the cost effectiveness of the alternatives".

For land disturbing projects that result in permanent land use change, this 'no discharge' analysis specifically evaluates the reasonability of other sites or alternate routes which could be developed to meet the project purpose, but are located *outside* of the Tier II watershed. Reasonability considerations, as applicable, may take into account property availability, site constraints, natural resource concerns, size, accessibility, and cost to make the property suitable for the project. This analysis shall be performed regardless of whether or not the applicant has ownership or lease agreements to a preferred property or route.

Information from this analysis may be used to inform minimization analysis.

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

**Instructions and Notes**

1. Complete the analysis for each Tier II watershed impacted.
2. Review the information in this document carefully. Prepare a report to address all of the analyses required by this document. Submit all Tier II analysis and documentation at one time.
3. To help improve review efficiency and avoid delays, do not leave any response blank. Please use "N/A" for any questions or sections that are not applicable.
4. Provide sufficient supporting documentation for narratives.
5. The level of analysis necessary, and amount of documentation that may be needed to make a decision is dependent upon project size, scope, and scale of relative impacts to Tier II resources. Please develop responses accordingly.
6. Reports/responses shall be submitted in electronic format, as well as paper. Full plans are not required unless requested over the course of the review.
7. Direct any questions regarding this form to Angel Valdez at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov), or by phone at 410-537-3606.

**No Discharge Alternative Analysis Final Documentation Checklist**

- ☐ Signed & Dated MDE Tier II Alternatives Analysis – No Discharge Alternative form (page 1)
- ☐ Qualifying Exemptions with supporting documentation
- ☐ General Project Purpose Statement with relevant definitions
- ☐ Alternative Site Reasonability Analysis
  - ☐ Results of initial site search
  - ☐ Map of alternatives relative to preferred site and Tier II streams/catchment
  - ☐ Alternative Sites Summary Analysis Table Supplementary Information (per site)
  - ☐ Detailed Narrative of Alternate Analysis Outcome
- ☐ Alternative Route Reasonability Analysis
  - ☐ Results of initial site search
  - ☐ Map of all alternatives relative to preferred route and Tier II streams/catchment
  - ☐ Alternative Sites Summary Analysis Table Supplementary Information (per site)
  - ☐ Detailed Narrative of Alternate Analysis Outcome
- ☐ Narrative rationale for final decision of reasonableness



MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

Qualifying Exemptions
<p>For the purposes of the no discharge analysis for land disturbing activities, extenuating circumstances may apply to projects that are developed to address a specific need, may be linked to special funding, or linked to a specific location. Supporting documentation is required before consideration. Please read the following examples and determine whether or not a given situation is applicable.</p> <p>The applicant must get concurrence from MDE as to the applicability of any special circumstances prior to completing the no discharge alternatives analysis. It is at the Department's discretion to determine whether a special circumstance applies, and whether or not this applicability means that there is not a reasonable alternative that avoids the Tier II watershed.</p> <p>If none of the special circumstances apply, check "Not Applicable".</p>
<p><input type="checkbox"/> <b>Not Applicable</b></p>
<p><input type="checkbox"/> <b>Situation 1:</b> Project is linked to unique or special incentives for State, County, or Municipality</p> <p>Example: County needs for 1000 units of low-income senior housing in legislative district 7. Documentation must include the request for proposals (RFP) or similar missive to meet the housing need, and unique benefits or incentives lost if the project is moved outside of legislative district 7.</p> <p>Example: Project is located in a State Designated Priority Funding Area, State Designated Enterprise Zone, or similar area targeted by the State for economic growth, business development, or investment.</p>
<p><input type="checkbox"/> <b>Situation 2:</b> Project has location specific limitations</p> <p>Example: College campus extension. Education capital funding limits development to sites that are within 5 miles of the main campus. Documentation should include the RFP or similar documentation.</p> <p>Example: Project is taking place in an existing right of way, or using an area that is currently operational. Such projects include replacing transmission lines, expanding operations on a working farm or business center.</p>
<p><input type="checkbox"/> <b>Situation 3:</b> Military project (or similar) with restrictions due to national security, etc.</p> <p>Example: Construct a new runway and hangar for Air Force 1. The military may identify a certain location or base where this construction shall occur due to existing facilities, support personnel, and security concerns.</p>
<p><input type="checkbox"/> <b>Situation 4:</b> Project has little to no resource impacts.</p> <p>Example: Repair or replacement of existing structures, road resurfacing, bridge maintenance using scaffolding, General Waterways Construction Permits, habitat restoration, rehabilitation, and stabilization.</p>
<p><input type="checkbox"/> <b>Situation 5:</b> Project is a "Grandfathered" development, that meets the specifications within Chapter 1.2, in the <i>Maryland Model Stormwater Management Ordinance, June 2009 &amp; April 2010</i></p> <p>Administrative waivers, extension documentation, etc. are required documentation.</p> <p>Note -This exemption does not apply to linear projects like roads or pipelines. Grandfathered projects are not exempt from the minimization alternatives analysis.</p>

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

**General Project Purpose Statement**

1. Define the overall project purpose and site selection criteria. To result in a fair and meaningful analysis for the antidegradation review the site selection criteria must fall into the following parameters:
  - a. The statement must not be so narrowly constructed as to limit the results to one site with no other possible alternatives, or
  - b. Likewise, the statement cannot be too broadly written creating too many alternatives to effectively consider.
2. Example Statements
  - a. Too Narrow: To develop a high density residential housing complex consisting of 1000 living units on a 200 acre site adjacent to the Mall of Maryland. -- The likelihood that there are multiple properties other than the desired alternative available are unlikely, and this eliminates the possibility of properties outside of the Tier II watershed.
  - b. Too Broad: To develop a residential housing complex in Charles County. -- This will yield hundreds of results, creating a burdensome and unrealistic amount of work to evaluate each alternative.\*\*
  - c. Reasonable: To develop a residential housing complex near a major shopping center in Northern Charles County. -- This will reduce the number of available properties to a more manageable amount, while still meeting the overall purpose of providing housing near a retail center in a target geographic area. The applicant can further refine the statement by defining "near", "major shopping center", and "Northern Charles County".
3. The applicant must craft a statement that yields at least 3 available alternative properties for further evaluation.
4. The level of detail for the alternative analysis process should appropriately match the complexity of the project taking into consideration factors such as resource impacts to Tier II watersheds in terms of impervious cover, forest cover loss, riparian buffer impacts, public comment, etc. For example, the amount of documentation provided for 3 alternatives to place a single dwelling on one acre is expected to be significantly less than the documentation expected for a 300 acre mixed-use development.

\*\*Based on comments received during the review or other mitigating circumstances, the Department may require the applicant to evaluate additional alternatives, or provide a more in-depth analysis.

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

<b>Table 1: Alternative Site Evaluation Summary Analysis Table</b>			
Evaluate each criteria listed in the left hand column for each alternative site. Populate each box with the appropriate conditions, i.e. either yes/no, or by listing one or more of the options provided (a, b, c...), such as types of utilities available at a given site.			
	<b>Site 1</b>	<b>Site 2</b>	<b>Site 3</b>
<b>Availability:</b> a. Owned by applicant b. For sale c. Special, please explain (example: remediation required)			
<b>Sizing appropriate:</b> a. As is b. Purchase of adjoining property/ROW required			
<b>Accessible Utilities:</b> a. Electric b. Water c. Sewer d. Site access (existing road/bridge, etc.). e. None			
<b>Development Resources:</b> a. Existing SWM b. Existing buildings/structures c. Site cleared			
<b>Zoning:</b> a. Appropriate b. Waiver required			
<b>Resource Impacts:</b> a. Streams b. Forest c. Wetlands/wetlands buffer d. 100-yr flood plain			
<b>Cost to Acquire is Reasonable:</b> Yes or No			



MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

**Alternative Sites Summary Analysis Table Supplementary Information:**

1. Explanation of site search criteria and rationale.
  - a. Relate project requirements to the criteria in Table 1.
  - b. Include any additional critical criteria not identified in the above table.
2. Results of initial site search.
  - a. List the available sites for consideration before the applicant chose 3 for further evaluation.
  - b. Include a brief narrative description of each site.
  - c. Include a table listing basic site address, lot size, parcel and map.
  - d. Include an overview map showing sites and their relative location to the preferred property.
  - e. If available, include Real Property Search Data (From Maryland Department of Assessments and Taxation (<http://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx>), or MLS (Multiple Listing Service) information.
3. Expand upon the responses in Table 1.
  - a. Include a narrative that clearly explains how the applicant determined the final 3 sites for further consideration in Table 1.
  - b. Provide basic information about each site, i.e. land use, land cover, unique features, on-site resources such as streams, wetlands, relevant geology and/or hydrology, etc.
  - c. Discuss specific resource impacts.
    - i. Include a table that further breaks down the resource impacts associated with the 3 alternative sites.
    - ii. Include a narrative that further details whether resources could be avoided. For example, an on-site stream that will most likely be crossed to accommodate site access would make that site less favorable when compared to another option.
4. Justify final site decision.

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

<b>Table 1: Alternative Route Evaluation Summary Analysis Table (use for linear projects such as roads, utility lines, etc)</b>			
Evaluate each criteria listed in the left hand column for each alternative site. Populate each box with the appropriate conditions, i.e. either yes/no, or by listing one or more of the options provided (a, b, c...), such as types of utilities available at a given site.			
	<b>Site 1</b>	<b>Site 2</b>	<b>Site 3</b>
<b>Availability:</b> a. ROW Owned by applicant b. ROW can be acquired or leased c. Other, please explain			
<b>Accessible Utilities (i.e. where connecting infrastructure is required):</b> a. Electric b. Water c. Sewer or pipeline d. Site access (existing road/bridge, etc.). e. None			
<b>Zoning:</b> a. Appropriate b. Waiver required			
<b>Resource Impacts:</b> a. Streams b. Forest c. Wetlands/wetlands buffer d. 100-yr flood plain			
<b>Cost to Acquire is Reasonable:</b> Yes or No			

MDE Tier II Alternatives Analysis – No Discharge Alternative V 1.2 (7/9/2020)

**Alternative Route Summary Analysis Table Supplementary Information:**

1. Explanation of route search criteria and rationale.
  - a. Relate project requirements to the criteria in Table 1.
  - b. Include any additional critical criteria not identified in the above table. For example, if the purpose of the project is to improve public safety, documentation must be provided to support this claim. For a new road this may include data on accidents, visibility issues, or geometric design issues that can complicate travel.
2. Results of initial route search.
  - a. List the available routes for consideration before the applicant chose 3 for further evaluation.
  - b. Include a brief narrative description of each route.
  - c. Include a table listing route start and end addresses, parcel and map, land use (i.e. residential neighborhood, commercial district, etc.)
  - d. Include an overview map showing results and their relative location within the impacted Tier II watershed.
3. Expand upon the responses in Table 1.
  - a. Include a narrative that clearly explains how the applicant determined the final 3 sites for further consideration in Table 1.
  - b. Provide basic information about each site, i.e. land use, land cover, unique features, on-site resources such as streams, wetlands, etc.
  - c. Discuss specific resource impacts.
    - i. Include a table that further breaks down the resource impacts associated with the 3 alternative routes. For example identify the number of streams on-site, potential forest loss for site clearing, etc.
    - ii. Include a narrative that further details whether resources could be avoided. For example, an on-site stream that will most likely be crossed to accommodate site access would make that site less favorable when compared to another option. Note: In making a final decision, MDE may take into consideration whether or not the project can avoid the impact by going over it (i.e. bridge) or under it (i.e. drilling). Consider this in the resource impact evaluation. The method of crossing may be a special permit condition.
4. Justify final route decision.

Provide a hardcopy responses to:

Maryland Department of the Environment  
Environmental Assessment and Standards Program  
Antidegradation Implementation Coordinator  
ATTN: Angel D. Valdez  
1800 Washington Blvd  
Baltimore, Maryland 21230

Provide an electronic response, by CD to the address above, or a way to download the response from secure cloud-based site, email: to Angel Valdez at [angel.valdez@maryland.gov](mailto:angel.valdez@maryland.gov).



SEJ Outline – Basic V 1.0



Maryland Department of the Environment  
Antidegradation Review Report Form  
**Social and Economic Justification –  
Outline for Basic Projects**



**Purpose**

This form is designed to help applicants assemble a complete social and economic justification (SEJ) to complete the Antidegradation Tier II Review when there are certain unavoidable impacts to water quality. Pursuant to COMAR 26.08.02.04-1 (J), applicants must submit an SEJ if “(a) No cost effective alternative to the discharge is available; or (b) The cumulative degradation resulting from nonpoint source pollution and any other permitted discharges would diminish water quality”. Therefore, if impacts cannot be fully avoided, minimized, or mitigated, the applicant may have to provide MDE with an SEJ. The SEJ must demonstrate that an economic hardship and/or public benefit overrides the value of the ecological services or water quality benefit that the Tier II water segment provides. The applicant must also provide documentation to show that all reasonable avoidance, minimization, and mitigation alternatives have been considered, and where economically feasible, implemented.

The Department will use this information to determine whether or not the SEJ is complete, if it adequately justifies the impact to water quality, and to make a final permit determination. MDE may provide additional comments during the course of the review.

- **Introduction**
  - Project Summary
  - Impacts
  - Antidegradation Policy
  - Document purpose
- **Socioeconomic Contributions of the Project**
  - Economic Importance and Benefit
    - Economic Impacts- During Construction
    - Economic Impacts –During Operations
    - Fiscal Impacts –Development Phase
    - Fiscal Impacts –During Operations
  - Social Importance and Benefit
    - Widespread social benefits to the community affected
    - Contributions to environment
- **Socioeconomic Benefits of High Quality Waters (as applicable)**
  - Social importance and benefit
    - Impacts on property value
    - Recreation value
    - Other quality of life benefits
  - General Evaluation of Economic Impacts of Restoring Degraded Stream Resources, including impacts to resources necessary to maintain high quality waters
    - Costs of 1:1 in-kind mitigation for all net forest cover loss based on area market value
    - Estimated cost of stream restoration, per linear foot, based on area market value
- **Conclusion**
- **References & Appendices as needed**



COUNTY COUNCIL OF TALBOT COUNTY

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CHUCK F. CALLAHAN, President  
PETE LESHER, Vice President

FRANK DIVILIO  
COREY W. PACK  
LAURA E. PRICE

March 26, 2021

VIA E-MAIL: [info@baycrossingstudy.com](mailto:info@baycrossingstudy.com)

Bay Crossing Study  
2310 Broening Highway  
Baltimore, MD 21224

**RE: Tier 1 Draft Environmental Impact Statement (DEIS)  
Chesapeake Bay Crossing Study**

On behalf of the Talbot County Council, I am again going on record against the Corridor 8 Chesapeake Bay Crossing proposal moving into the Tier 2 study. Enclosed herewith please find correspondence from Talbot County dated November 27, 2017, December 17, 2019 and August 12, 2020 that I am requesting be made part of the public record.

The County Council discussed the Tier 1 Draft Environmental Impact Statement (DEIS) at its meeting on March 23, 2021. Corridor 8 impacts four of the county's historic villages: Claiborne, Copperville, Tunis Mills and Unionville. These low density historic residential communities are an important component of the county's rural character and are recognized for their significant heritage and pattern of development. The County is committed to protecting these historic communities, some of which are low-income and majority minority populations, and it is distressing that these considerations are not acknowledged in the DEIS.

Additionally, it is important to be cognizant of maintaining traffic flow not only across the Chesapeake Bay, but throughout the U.S. Route 50 corridor. The current traffic flow through Talbot County on U.S. Route 50 is of concern, particularly during the summer months. Consideration should be given for the construction of an overpass at the intersection of U.S. Route 50 and Maryland Route 404 as well as the addition of a third travel lane on U.S. Route 50. With numerous traffic lights between Chapel Road and Dutchmans Lane, significant bottlenecks are occurring both with the traffic flow on U.S. Route 50 and traffic crossing U.S. Route 50. The County has noted for several years, most recently in its 2020 Priority Listing for the Consolidated Transportation Plan to the Maryland Department of the Environment, concerns with the following areas:

**US Route 50/MD Route 328 – Goldsborough Street Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Goldsborough Street, west of US Route 50.

The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

**MD Route 50/MD Route 331 – Dover Street Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Dover Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

**US Route 50/Chapel Road - Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Chapel Road, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

In addition, the Maryland Route 33 corridor serves as the sole evacuation route for the populated Bay Hundred peninsula. Additional heavy traffic on this road as a result of an additional Chesapeake Bay crossing would be of significant concern particularly during weather related emergencies. As noted in the 2020 Priority Listing for the Consolidated Transportation Plan:

**MD Route 33 Capacity and Evacuation Improvements**

During weather-related emergencies such as Tropical Storm Isabel and Hurricane Irene, this corridor experienced areas of significant flooding, limiting ingress and egress from this portion of the county. *The MD Route 33 corridor is the sole evacuation route for this populated neck or peninsula.* Accordingly, elevation modification to eliminate or minimize storm surge road flooding, as well as capacity improvements, should be pursued to protect the lives and safety of citizens in this area. Also, portions of this corridor between the Town of St. Michaels and the Town of Easton experience some weekday capacity issues which are anticipated to increase in the future. Traffic counts show that portions of MD Route 33 have heavy traffic volume, particularly near its intersection with MD Route 322. As an interim measure, the MD Route 33 corridor should be evaluated for any issues or problems that would need to be resolved in future improvements.

In closing, the Talbot County Council is against the Corridor 8 Chesapeake Bay Crossing proposal moving into the Tier 2 study. Thank you for the opportunity to comment.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY



Chuck F. Callahan, President

CFC/jkm  
Attachments

Cc: Sylvia Mosser, AICP, Maryland Department of Planning





COUNTY COUNCIL OF TALBOT COUNTY  
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JENNIFER L. WILLIAMS, President  
COREY W. PACK, Vice President

DIRCK K. BARTLETT  
CHUCK F. CALLAHAN  
LAURA E. PRICE

November 27, 2017

Kevin Reigrut, Executive Director  
Maryland Transportation Authority  
2310 Broening Highway  
Suite 150  
Baltimore, MD 21224

Re: Chesapeake Bay Crossing Study – Talbot County

Dear Director Reigrut:

Please consider this letter as the Talbot County Council's formal request that Talbot County be removed from consideration as a corridor for any proposed future capacity expansion across the Chesapeake Bay.

While the County Council recognizes that current and future traffic volumes may warrant the need for an additional crossing, Talbot County's road infrastructure is severely insufficient to handle the anticipated increases in traffic.

Sincerely,  
COUNTY COUNCIL OF TALBOT COUNTY

A handwritten signature in black ink, appearing to read "Jennifer L. Williams".

Jennifer L. Williams  
President

cc: Pete K. Rahn, Secretary, Maryland Dept. of Transportation  
Senator Adelaide Eckardt  
Delegate John Mautz, IV  
Delegate Christopher Adams



**COUNTY COUNCIL OF TALBOT COUNTY**

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COREY W. PACK, President  
CHUCK F. CALLAHAN, Vice President

FRANK DIVILIO  
PETE LESHIER  
LAURA E. PRICE

December 17, 2019

Melissa Williams, Director of Planning and Program Development  
Maryland Transportation Authority  
2310 Broening Highway  
Baltimore, Maryland 21224

**Re: Chesapeake Bay Crossing Study - Corridor 8 Alternative – Items of Consideration Justifying Denial as “Preferred Corridor Alternative”**

Dear Ms. Williams:

The Talbot County Council is on record with your office against the Corridor 8 proposal moving into the Tier 2 study and as such has several additional items to submit justifying that position. Specifically, the County’s recently updated Comprehensive Plan and related land use documents raise numerous areas of concern that should preclude Corridor 8 Alternative from becoming the “Preferred Corridor Alternative”.

The County has adopted a Chesapeake Bay Critical Area Plan which affects all waterfront areas of the County 1,000 feet landward from the shoreline or the inland edge of tidal wetlands. This action to implement the State’s Critical Area program effectively converted 57,498 waterfront acres to a very low density of one dwelling unit per 20 acres. These areas are characterized by natural environments such as floodplains and wetlands, agriculture, forestry and fisheries, and critical habitat. It is the County’s intent to retain these areas in such uses, in support of the State’s efforts regarding the Chesapeake Bay Critical Area.

The upland portions contiguous to the Critical Area are equally important because of the high concentration of sensitive natural areas in close proximity to the tributaries of the Chesapeake Bay. Like the Critical Area, this area also features a mix of agriculture, low-density residential and natural resource areas.

In addition, these narrow land areas have few routes to inland parts of the County. Flooding, traffic and other road obstructions have demonstrated legitimate cause for concern, should development overcome the capacity for safe transit through these areas.

Ms. Melissa Williams  
December 18, 2019  
Page 2

Conserving the agriculture, forestry, recreational and resource conservation uses that form the character of these areas is a high priority. Detailed zoning regulations have been adopted which direct, manage, control and minimize the adverse impacts of growth of these sensitive areas. The Chesapeake Bay Crossing Study Option 8 alignment would bisect and directly impact the County's most environmentally sensitive areas. The County has adopted detailed zoning regulations to direct, manage, control and minimize the adverse impacts of growth on these areas, including regulations in the Rural Conservation (RC) and Western Rural Conservation (WRC) zoning district.

Specific policy statements of the Comprehensive Plan follow as noted:

- The County is committed to protecting these sensitive environmental areas and future development in the sensitive areas should be primarily characterized by open space, agriculture, forestry, and low-density single-family detached homes (Policy 2.27). New development is restricted in sensitive areas and the protection and enhancement of environmental resources should be ensured (Policy 6.27).
- Agriculture and forest cover should remain the dominant land uses (Policy 2.28).
- Development within the 100-year floodplain associated with the Critical Area is also limited to minimize disturbance and protect life and property (Policy 6.23).
- The County also recognizes the importance of stream corridors as water quality buffers and wildlife habitat and encourages their protection in an undisturbed state (Policy 6.24).
- A County objective is to coordinate with federal and state agencies to preserve existing wetlands where possible and goal of "no net loss" of wetlands (Policy 6.30).
- Maintaining natural topography, drainage ways and tree cover should be a priority when determining the location of roads, placement of structures and site improvements (Policy 6.34).
- Forests and vegetation should be preserved in stream corridors to preserve the integrity of associated waterways (Policy 6.29).
- The County directs intense growth and development away from threatened and endangered species habitat and maintain low density conservation zoning in areas where such habitats are identified (Policy 6.35).

In addition to the County Comprehensive Plan, the County's Green Infrastructure Plan identifies multiple focus areas throughout the County. The Green Infrastructure Plan is an inventory of land and water areas that correspond with conservation priorities based on defined attributes. Two areas in particular would be impacted by Option 8; the Claiborne/Eastern Bay Shores and Miles/Wye East River Peninsula focus areas. Through the Plan, the County has identified these focus areas to enable County leaders to make the most educated conservation and land use decisions and to protect the County's valuable ecological, agricultural and aquatic resources.

Greenway hubs are significant areas that provide for wildlife habitat and biodiversity. They also often have scenic qualities, emphasize cultural and historic resources and include places or trails with historic and cultural values providing educational, scenic, recreational or economic benefits to the community.



Ms. Melissa Williams  
December 18, 2019  
Page 3

Corridor 8 would also impact four of the County's historic villages: Claiborne, Copperville, Tunis Mills and Unionville. These villages are notable among the County's residential areas; they are low density historic residential communities that are an important component of the County's rural character and recognized for their significant heritage and pattern of development. The County is committed to safeguarding these attributes and maintaining their sense of place.

It is for the above outlined reasons that the Talbot County Council is against having Corridor 8 selected as the "Preferred Corridor Alternative". The Council stands ready to discuss this matter with any party necessary to further the case against moving forward with Corridor 8.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY



Corey W. Pack, President

CWP/jkm



**Talbot County Department of Planning and Zoning  
215 Bay Street, Suite 2  
Easton, Maryland 21601**

Phone: 410-770-8030  
Email: mverdery@talbotcountymd.gov

FAX: 410-770-8043  
TTY: 410-822-8735

August 12, 2020

Heather Lowe, Project Manager  
Maryland Transportation Authority  
Division of Planning and Program Development  
Point Breeze 2310 Broening Highway  
Baltimore, MD 21224

Re: Bay Crossing Section 106

Dear Ms. Lowe,

The National Historic Preservation Act mandates the Section 106 process to accommodate historic preservation concerns in consultation with agency officials and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of the project. It is our understanding that the Section 106 process is running parallel to the draft Environmental Impact Statement process. Talbot County and the Historic Preservation Commission appreciates the opportunity to provide comment on the Chesapeake Bay Crossing Study, Tier 1 NEPA (Study).

The Study considers three Corridor Alternatives Reviewed for Analysis (CARA), each two-miles in width and known as the Area of Potential Effects or APE, from an original 14 corridors. It is our understanding that each CARA is designed to connect existing major roadway infrastructure of four lanes or greater and specific roadway alignments for possible crossing locations identified in the Tier 1 Study. Identification of alternative alignments would occur in Tier 2, if Tier 1 concludes with the selection of a Preferred Corridor.

Talbot County's Corridor 8 begins in Annapolis, roughly follows MD 424 and MD 214, crossing the Bay near Mayo, and passing just south of the southern tip of Kent Island, then curves northeast. The corridor returns to land on the Eastern Shore near MD 33, west of St. Michaels. From there, Corridor 8 crosses the Miles River and does not follow the existing roadway network until it ties-in with MD 50 north of Easton.

As a Tier 1 NEPA study, the two-mile wide CARA encompass the area where potential effects from an undertaking may occur. The Area will be re-delineated, based on the location of the alignment alternatives (within the Tier 1 Preferred Corridor) as additional information becomes available about the potential effect on historic properties.



This memo concerns preliminary identification, within Talbot County, of the likely presence of architectural and archaeological (terrestrial and underwater) resources in the APE. The intent was to identify known historic properties and identify the potential for additional properties through recorded or unrecorded resources. In addition to structures, data was reviewed to identify potential underwater archaeological sites not yet recorded by MHT.

Corridor 8 contains the most archaeological resources of the three corridors, with the highest number of NRHP listed or eligible sites, the highest number of unevaluated sites and the highest number of recorded shipwrecks. In total, 17,580 acres may require additional terrestrial survey; the highest among the three corridors.

There are 14 recorded historic properties in Corridor 8 (Table 7-8). Of these, 11 are listed in the National Register of Historic Properties (NRHP) and three have been determined eligible for listing—two by preservation easement. Properties with Maryland Historical Trust (MHT) easements are considered by MHT to be eligible for the NRHP regardless of whether a formal Determination of Eligibility (DOE) has been prepared. In addition, there are 102 resources surveyed for the Maryland Inventory of Historic Properties (MIHP) but not evaluated for NRHP listing, seven roadways listed in the MIHP, and a significant amount (1,115) of unrecorded architectural resources pre-1980.

Buildings in this corridor are also older. Corridor 8 contains 11 18<sup>th</sup> century resources, the most of the three corridors. There are also 35 19<sup>th</sup> century resources. The other 96 percent (1,069) of resources are 20<sup>th</sup> century, only 54 percent (597) of which date to after 1950.

Of serious concern is the impact of Corridor 8, regardless of the final alignment, to the Town of St. Michaels (Town). In the late 1770s, developer James Braddock designed the original street plan of the Town with lots laid out around a central square. The Town is positioned on the Miles River and has a substantial and well-documented stock of historic structures, streetscape, sites and settings. Over 250 structures have been surveyed and documented, forming a largely intact historic district in which houses, churches and commercial structures from the late 19<sup>th</sup> century and earlier are well represented. The Town includes a protected locally-designated historic area and is a National Register District.

Preservation of these structures and streetscapes, and the Town's historical context not only enhance the historic character of the Town, but are also important to its tourism and marine-based economies. St. Michaels attracts visitors from all over the world, bringing much needed revenue that helps sustain the district. The Town, and Talbot County, are also included in the Stories of the Chesapeake Heritage Area and recognizes St. Michaels as offering a number of heritage resources of importance to the region.

It is of no question that any alignment of a bridge within Corridor 8 will significantly and detrimentally affect the Town's historic recognitions. The juxtaposition of the modern bridge crossing with the Town's view shed from the Miles River and historic harbor will erase the historic context of the Town; the very draw that brings visitors, businesses and cultural attractions to St. Michaels.

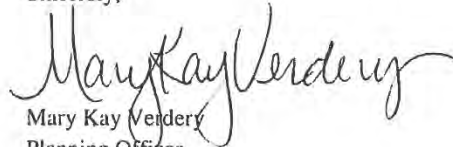
Talbot County remains opposed to the Corridor 8 proposal moving into the Tier 2 study. In addition to the effects on cultural, architectural and archeological resources noted in the Tier 1



study; undesirable impacts upon environmental, conservation and infrastructure would result in contrast with the goals and objectives of our Comprehensive Plan. This opposition is outlined in greater detail in the attached December 18, 2019 letter from Talbot County Council President, Corey W. Pack.

Thank you for the opportunity to review and comment. Please contact our department should you require additional information or assistance.

Sincerely,



Mary Kay Vendery  
Planning Officer



**COUNTY COUNCIL OF TALBOT COUNTY**

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COREY W. PACK, President  
CHUCK F. CALLAHAN, Vice President

FRANK DIVILIO  
PETE LESHER  
LAURA E. PRICE

May 8, 2020

Heather Murphy, Director  
Office of Planning and Capital Programming  
Maryland Department of Transportation  
P.O. Box 548  
Hanover, MD 21076

**RE: Talbot County – 2020 Priority Listing**

Dear Ms. Murphy:

The Talbot County Council endorsed the attached list of priority projects for Talbot County at our meeting on April 28, 2020. Please note that this year's listing includes information not only on roads infrastructure, but Easton Airport safety improvements as well.

The Council looks forward to meeting with you and representatives from the Maryland Department of Transportation this fall for the annual Consolidated Transportation Plan meeting. In the meantime, should you have any questions, please contact Ray Clarke, County Engineer, at (410) 770-8170 or Micah Risher, Airport Manager, at (410) 770-8055.

Sincerely,  
COUNTY COUNCIL OF TALBOT COUNTY

A handwritten signature in dark ink, appearing to be "C. Pack", written over a horizontal line.

Corey W. Pack  
President

CWP/jkm  
Attachment

Cc: Ian Beam – Rural Area Regional Planner, MDOT  
The Honorable Adelaide Eckardt  
The Honorable Christopher Adams  
The Honorable John Mautz  
Ray Clarke, County Engineer  
Micah Risher, Easton Airport Manager

**TALBOT COUNTY PROJECT PRIORITY LISTING  
FOR THE CONSOLIDATED TRANSPORTATION PROGRAM  
2020**

PRIORITY RANKING	PROJECT DESCRIPTION
1	<p><b><u>MD Route 33 Capacity and Evacuation Improvements</u></b>  During weather-related emergencies such as Tropical Storm Isabel and Hurricane Irene, this corridor experienced areas of significant flooding, limiting ingress and egress from this portion of the county. <i>The MD Route 33 corridor is the sole evacuation route for this populated neck or peninsula.</i> Accordingly, elevation modification to eliminate or minimize storm surge road flooding, as well as capacity improvements, should be pursued to protect the lives and safety of citizens in this area. Also, portions of this corridor between the Town of St. Michaels and the Town of Easton experience some weekday capacity issues which are anticipated to increase in the future. Traffic counts show that portions of MD Route 33 have heavy traffic volume, particularly near its intersection with MD Route 322. As an interim measure, the MD Route 33 corridor should be evaluated for any issues or problems that would need to be resolved in future improvements.</p>
2-A*	<p><b><u>US Route 50/MD Route 328 – Goldsborough Street Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Goldsborough Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
2-B*	<p><b><u>MD Route 50/MD Route 331 – Dover Street Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Dover Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
2-C*	<p><b><u>US Route 50/Chapel Road - Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Chapel Road, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
3	<p><b><u>US Route 50/MD Route 309/MD Route 662 Intersection Capacity Improvements</u></b>  As a result of increasing traffic for the growing Easton Airport, Talbot County Community Center and the likely relocation of the Easton Memorial Hospital to Longwoods Road (MD Route 662), one of our top priorities would be the construction of an overpass that meets FAA requirements and serves these facilities. Moreover, MD Route 309 (Cordova Road) is a significant corridor for vehicular traffic from northern Caroline County (Denton, Ridgely, Greensboro, etc.) to Easton and points south along US Route 50. Left turns between MD Route 309 and US Route 50 commonly back up beyond the turn lanes provided. This turn lane shortcoming should be rectified as appropriate. West of this intersection, extending through the adjacent MD 662 intersection, has poor geometry/intersection spacing. For these reasons, capacity and safety improvements in this area would be beneficial.</p>
4	<p><b><u>MD Route 329 (Royal Oak Road) Safety Improvements</u></b>  This roadway serves as the primary means of ingress and egress for the communities in and around the villages of Royal Oak and Bellevue, in addition to a significant tourism corridor for these communities and beyond. Paralleling MD Route 33, this roadway provides an alternative route for MD Route 33 (see priority number 1 above, evacuation corridor). The importance of this alternative route is compounded considering the aging status of the bridge carrying MD Route 33 over Oak Creek.  <i>An overpass should be planned as a long term solution for Priority Rankings 2-A through 2-C.</i></p>



**Easton Airport**  
**MDOT Funding Priority**  
**April 21, 2020**

**Easton Airport - Runway Safety Improvements**

Easton Airport has completed an environmental assessment to improve the Runway Safety Area (RSA) of the primary Runway 4/22 and shift the runway 1,900 ft. southwest of the current location. This safety improvement will bring the runway into full compliance with FAA design standards. This is critical for the long term financial sustainability of the airport and economic benefits derived by the County. The airport is now moving into implementing the construction solution and will seek to complete phase 1 of 3 of the Obstruction Removal Program in FY2021.

Classified as a "National" general aviation airport by the FAA, Easton Airport supports the national and state system by providing communities with access to national and international markets in multiple states and throughout the country.

Talbot County is requesting MDOT - Maryland Aviation Administration maximize grant funding for Phase 1 Construction of Easton Airport's Obstruction Removal Program, with an estimated project total cost of \$550,000 in FY2021.



## Maryland State Clearinghouse Response

The Bay Crossing Study Team appreciates the responses provided by the Maryland Department of General Services, Maryland Department of Planning (MDP), Baltimore Metropolitan Council (BMC), Maryland Department of the Environment (MDE), Harford County, Maryland Historical Trust, Kent County, Queen Anne's County and Talbot County via the Maryland State Clearinghouse on the Tier 1 DEIS. MDTA will continue to coordinate with state and local agencies throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

MDTA has opted for a streamlined approach to development of the Tier 1 FEIS/ROD for the Bay Crossing Study. To achieve this, MDTA has included an errata of changes to the DEIS rather than reproducing the full text of the DEIS as part of the FEIS. MDTA is therefore applying updates to the DEIS in the FEIS/ROD only for substantial factual revisions (**Chapter 2**) or supplementary analysis (**Chapter 3**) relevant to the comparison of Corridor Alternatives and identification of the PCA.

MDTA provides the following responses to specific comments provided via the MD State Clearinghouse.

**MDE:** MDTA would continue to coordinate with MDE regarding potential hazardous materials concerns in a future Tier 2 study. A Tier 2 study would include more detailed assessment of existing hazardous materials, potential hazmat concerns for alternative crossing alignments, and discussion of mitigation for potential hazardous materials encountered during construction. MDTA would also coordinate with MDE as needed during a future Tier 2 study regarding water quality, special protections for Tier II waters, and stormwater as noted in MDE's comments.

**Harford County:** A potential Tier 2 study would include greater analysis of wells and septic system impacts as appropriate within the Tier 1 PCA. The Tier 1 PCA is not located within Harford County.

**MDP:** MDTA would continue to coordinate with MDP during a future Tier 2 study. MDTA appreciates the input provided by MDP on socioeconomics, induced growth and land use impacts developed for the Tier 1 EIS. Further analysis will be conducted in coordination with MDP during Tier 2.

**MHT:** MDTA and FHWA will continue coordination with MHT regarding Section 106 throughout the remainder of the Tier 1 study and continuing in a potential future Tier 2 study.

**Kent County:** MDTA acknowledges Kent County's opposition to a new Bay crossing with a terminus in Kent County. This FEIS/ROD has identified Corridor 7 as the PCA and Selected Corridor Alternative, which is not located within Kent County.

**Queen Anne's County:** MDTA would coordinate further with Queen Anne's County during a future Tier 2 study. MDTA will consider County plans, codes and guiding policy documents in the Tier 2 study, including those identified by Queen Anne's County via the MD State Clearinghouse letter. Other roadway improvements identified by Queen Anne's County are not within the scope of the Bay Crossing Study, but they may be funded and implemented separately. All analysis and No-Build conditions would be updated as necessary during Tier 2 to reflect other projects planned or completed.

**Talbot County:** MDTA acknowledges Talbot County's opposition to Corridor 8, and its concern for issues identified including impacts to cultural resources, residential communities, land use, traffic flow, and sensitive natural resource areas. This FEIS/ROD has identified Corridor 7 as the PCA and Selected

Corridor Alternative. Other improvements identified by Talbot County are not within the scope of the Bay Crossing Study, but they may be funded and implemented separately. All analysis and No-Build conditions would be updated as necessary during Tier 2 to reflect other projects planned or completed.



## Maryland Historical Trust Comment

**From:** Tim Tamburrino -MDP- <tim.tamburrino@maryland.gov>  
**Sent:** Monday, May 17, 2021 3:02 PM  
**To:** Heather Lowe <hlowe@mdta.state.md.us>  
**Cc:** Sarah Williamson <sarahw@cri.biz>  
**Subject:** Re: Bay Crossing Study Tier 1 DEIS Comment Period

Hi Heather,

Thank you for providing the Maryland Historical Trust (Trust) with the Federal Highway Administration's (FHWA) final Cultural Resources Technical Report and the Draft Environmental Impact Statement (DEIS) for the Chesapeake Bay Crossing Study: Tier 1 National Environmental Policy Act. The Trust previously commented on the draft technical report and the overall undertaking on 26 August 2020 in accordance with Section 106 of the National Historic Preservation Act (NHPA). Thank you for considering and incorporating our previous comments into the planning process for this project. We have no additional comments at this time. The Trust looks forward to more detailed studies to identify and evaluate cultural resources that may be affected by the proposed undertaking, if FHWA identifies a preferred corridor and the study advances to Tier 2 NEPA.

Thanks, Tim



Tim Tamburrino  
Preservation Officer  
Maryland Historical Trust

Maryland Department of Planning  
[MHT.Maryland.gov](https://mht.maryland.gov)  
(410)  
697 9589

[Please take our customer service survey.](#)

**\*Please note that I am largely teleworking so email is the best means of contact. To check on the status of a project submittal, please use our online search: <https://mht.maryland.gov/compliancelog/ComplianceLogSearch.aspx>.**

### Maryland Historical Trust Response

The Bay Crossing Study Team appreciates the input provided by the Maryland Historical Trust (MHT) on the Tier 1 DEIS. MDTA will continue to coordinate with MHT throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study. In response to specific comments contained in MHT's comment letter, the Bay Crossing Study Team offers the following response:

MDTA anticipates that a future Tier 2 study would include detailed evaluations of cultural and historical resources that may be affected by the proposed undertaking based on alternative alignments within a Tier 2 selected corridor and will coordinate with MHT during these evaluations.

## Queen Anne's County Comment



**Queen  
Anne's  
County**

**County Commissioners:**

James J. Moran, At Large  
Jack N. Wilson, Jr., District 1  
Stephen Wilson, District 2  
Philip L. Dumenil, District 3  
Christopher M. Corchiarino, District 4

**THE COUNTY COMMISSIONERS OF  
QUEEN ANNE'S COUNTY**

The Liberty Building  
107 North Liberty Street  
Centreville, MD 21617

e-mail: [QACCommissioners&Administrator@qac.org](mailto:QACCommissioners&Administrator@qac.org)

County Administrator: *Todd R. Mohn, PE*  
Executive Assistant to County Commissioners: *Margie A. Houck*  
County Attorney: *Patrick Thompson, Esquire*

May 10, 2021

Mr. Gregory Slater, Secretary  
Maryland Department of Transportation  
Post Office Box 548  
7201 Corporate Center Drive  
Hanover, Maryland 21076-0548

**Re: Bay Crossing Study Tier I NEPA Study**

Dear Secretary Slater:

The Queen Anne's County Commissioners have been monitoring the progress of the Bay Crossing Study, Tier I NEPA process conducted by the Maryland Transportation Authority (MDTA) and the Federal Highway Administration (FHWA). The purpose of the study is to consider corridors for providing additional capacity across the Chesapeake Bay in order to improve mobility, travel reliability and safety at the existing Bay Bridge. Based on four years of review and evaluation this State and Federal process has selected Corridor 7 from Anne Arundel County to Kent Island as the preferred alternative to locate a future bay crossing.

As projected in the Bay Bridge Life Cycle Cost Analysis and the Bay Crossing Study, traffic impacts and congestion within the Bay Bridge corridor will continue to deteriorate. The delays on this primary transportation and freight corridor impact the daily operations of many Maryland residents and businesses but impacts a disproportionate number of Queen Anne's County residents. For many years in the Annual CTP letter to MDOT, the Queen Anne's County Commissioners have identified the need for additional capacity crossing the bay as a top priority to reduce congestion and increase mobility in and through Queen Anne's County.

It was anticipated that Corridor 7, the existing bay crossing location, would be identified by State and Federal agencies as the preferred alternative to add capacity and reduce congestion due to the:

- Existing road infrastructure at the current location
- Lack of road infrastructure at other locations
- Relief of congestion and backups at the existing Bay Bridge compared to other corridors
- Estimated cost based on length of crossing
- Need to plan for replacement of older bridges
- Better compatibility with existing land-use patterns likely resulting in fewer indirect effects than other locations
- Lower environmental impacts than other corridors



As the first step in the planning process, The Tier I NEPA Study only identifies a 2-mile-wide corridor where a future crossing may go. The next step in the planning process is a Tier II NEPA study to review potential bridge and road alignments and the associated impacts within the corridor. The details related to a new bridge and highway improvements, such as the specific location, number of lanes, highway widening, right of way acquisition, integration with existing roads and bridges, will be part of the Tier II study. This leaves many aspects related to a future bay crossing and corridor undecided. Therefore, with significant details to be considered during future study, Queen Anne's County must be included as a decision maker in future Tier II NEPA process. This is vital to protect the interest of citizens, businesses, commuters, emergency services, and commerce of Queen Anne's County. Specifically, the County would like to ensure that its standing plans, codes, and guiding policy documents are considered in greater detail during the Tier II NEPA process. These documents include but are not limited to the following:

- Comprehensive Plan
  - Appendix 4 (Master Roadway and Transportation System)
  - Sustainable Growth Management Strategy
  - Transportation Element (Guiding Principles, Vision, and Objectives)
- Community Plans
- Kent Island Transportation Plan
- Sea Leve Rise and Coastal Vulnerability assessment and implementation Plan (with Vulnerability Viewer)

The Tier II NEPA process is not funded; therefore, it is unknown when the multi-year process would start or be completed. Any new construction resulting in new capacity crossing the bay is many years away. Nonetheless, many highway improvements to meet current and long term demand need to be funded and constructed immediately. With MDTA and FHWA selection of Corridor 7, it is essential that this decision be supported with engineering and construction funding for projects currently identified on US 50, US 301, MD 18 and MD 8. It is prudent to begin funding all improvements within the County included in the adopted Federal Long Range Transportation Plan (LRTP), State of Maryland Transportation Plan (2040 MD), Consolidated Transportation Plan (CTP), MDOT Priority Project Ranking (Chapter 30), the County Priority Letter and Kent Island Transportation Plan (KITP) which in part include:

- US 50 widening and interchanges on US 50 from US 301 to MD 404 (2040 MD, CTP & Priority Letter)
- Widening and improvements to MD 18 (Priority Letter, LRTP, KITP, Chapter 30)
- MD 8 widening and Interchange Improvements (KITP)(LRTP)
- Construct at grade intersection safety improvements on the US 301 corridor (Priority Letter)
- US 50 & Dundee Road Overpass on Kent Island (KITP)

Additional vital road improvements along the entire length of Corridor 7 will be identified by Queen Anne's County as a specific road alignment is considered during Tier II NEPA.

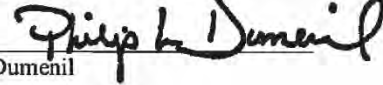
As planning for a bay crossing moves through the NEPA process the County will continue to monitor traffic volumes as well as any changes in travel patterns. The County Commissioners remain committed to work with MDOT on congestion management strategies so citizens can move throughout the County on local roads while through traffic is directed to remain on US 50 & 301.


We look forward to continued cooperation with MDOT to implement needed transportation improvements and find transportation solutions to best serve our citizens.

QUEEN ANNE'S COUNTY  
BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Christopher M. Corchiarino, President

  
\_\_\_\_\_  
Jack N. Wilson, Jr.

  
\_\_\_\_\_  
Philip L. Dumenil

  
\_\_\_\_\_  
James J. Moran

  
\_\_\_\_\_  
Stephen Wilson

## Queen Anne's County Response

The Bay Crossing Study Team appreciates the input provided by Queen Anne's County on the Tier 1 DEIS. MDTA will continue to coordinate with Queen Anne's County throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA Study.

A Tier 2 study would include continued coordination with the County, and more detailed consideration of Queen Anne's County plans, codes and guiding policy documents including the Comprehensive Plan, Community Plans, Kent Island Transportation Plan, and Sea Level Rise and Coastal Vulnerability assessment and implementation Plan.

The improvements noted by Queen Anne's County on US 50, US 301, MD 18 and MD 8 are outside of the scope of the current Bay Crossing Study but may be implemented separately from the Study. Any changes in existing conditions, such as other roadway improvement projects in the vicinity of the PCA, would be accounted for in a potential future Tier 2 study. MDTA would coordinate with Queen Anne's County regarding improvements to tie-in roads and other existing infrastructure along Corridor 7 within Queen Anne's County.

### September 2021 Resolution

In addition to the DEIS comments provided above, MDTA also acknowledges the resolution adopted by the County Commissioners of Queen Anne's County on September 28, 2021. The resolution concludes as follows:

*Resolved by the County Commissioners of Queen Anne's County, Maryland, That it hereby finds that the best solution to maintain forward progress, support the investments already made along the US Route 50/301 corridor, specifically from I-97 to MD 404, and address the existing and future traffic capacity shortfalls is to replace the current two spans of the Chesapeake Bay Bridge with a single new replacement bridge, constructed at the same location, that includes a minimum of eight travel lanes to provide adequate capacity and dependable and reliable travel times; and be it further*

*Resolved, That the County Commissioners hereby request that the Tier 1 Chesapeake Bay Crossing Study be concluded, and that sufficient resources be allocated for the Tier 2 Chesapeake Bay Crossing Study; and be it further*

*Resolved, That a copy of this Resolution be sent to the County Council of Anne Arundel County for their consideration and mutual support.*

MDTA would continue to evaluate options for new crossing capacity in Corridor 7 in a potential future Tier 2 study, including a replacement of the current two spans of the Bay Bridge, along with details such as lane configurations. MDTA also notes that Anne Arundel County has passed a similar resolution (noted in the Anne Arundel County response above in this appendix).



## Talbot County Comment



### COUNTY COUNCIL OF TALBOT COUNTY

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CHUCK F. CALLAHAN, President  
PETE LESHER, Vice President

FRANK DIVILIO  
COREY W. PACK  
LAURA E. PRICE

March 26, 2021

VIA E-MAIL: [info@baycrossingstudy.com](mailto:info@baycrossingstudy.com)

Bay Crossing Study  
2310 Broening Highway  
Baltimore, MD 21224

**RE: Tier 1 Draft Environmental Impact Statement (DEIS)  
Chesapeake Bay Crossing Study**

On behalf of the Talbot County Council, I am again going on record against the Corridor 8 Chesapeake Bay Crossing proposal moving into the Tier 2 study. Enclosed herewith please find correspondence from Talbot County dated November 27, 2017, December 17, 2019 and August 12, 2020 that I am requesting be made part of the public record.

The County Council discussed the Tier 1 Draft Environmental Impact Statement (DEIS) at its meeting on March 23, 2021. Corridor 8 impacts four of the county's historic villages: Claiborne, Copperville, Tunis Mills and Unionville. These low density historic residential communities are an important component of the county's rural character and are recognized for their significant heritage and pattern of development. The County is committed to protecting these historic communities, some of which are low-income and majority minority populations, and it is distressing that these considerations are not acknowledged in the DEIS.

Additionally, it is important to be cognizant of maintaining traffic flow not only across the Chesapeake Bay, but throughout the U.S. Route 50 corridor. The current traffic flow through Talbot County on U.S. Route 50 is of concern, particularly during the summer months. Consideration should be given for the construction of an overpass at the intersection of U.S. Route 50 and Maryland Route 404 as well as the addition of a third travel lane on U.S. Route 50. With numerous traffic lights between Chapel Road and Dutchmans Lane, significant bottlenecks are occurring both with the traffic flow on U.S. Route 50 and traffic crossing U.S. Route 50. The County has noted for several years, most recently in its 2020 Priority Listing for the Consolidated Transportation Plan to the Maryland Department of the Environment, concerns with the following areas:

**US Route 50/MD Route 328 – Goldsborough Street Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Goldsborough Street, west of US Route 50.

The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

**MD Route 50/MD Route 331 – Dover Street Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Dover Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

**US Route 50/Chapel Road - Intersection Improvements**

This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Chapel Road, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.

In addition, the Maryland Route 33 corridor serves as the sole evacuation route for the populated Bay Hundred peninsula. Additional heavy traffic on this road as a result of an additional Chesapeake Bay crossing would be of significant concern particularly during weather related emergencies. As noted in the 2020 Priority Listing for the Consolidated Transportation Plan:

**MD Route 33 Capacity and Evacuation Improvements**

During weather-related emergencies such as Tropical Storm Isabel and Hurricane Irene, this corridor experienced areas of significant flooding, limiting ingress and egress from this portion of the county. *The MD Route 33 corridor is the sole evacuation route for this populated neck or peninsula.* Accordingly, elevation modification to eliminate or minimize storm surge road flooding, as well as capacity improvements, should be pursued to protect the lives and safety of citizens in this area. Also, portions of this corridor between the Town of St. Michaels and the Town of Easton experience some weekday capacity issues which are anticipated to increase in the future. Traffic counts show that portions of MD Route 33 have heavy traffic volume, particularly near its intersection with MD Route 322. As an interim measure, the MD Route 33 corridor should be evaluated for any issues or problems that would need to be resolved in future improvements.

In closing, the Talbot County Council is against the Corridor 8 Chesapeake Bay Crossing proposal moving into the Tier 2 study. Thank you for the opportunity to comment.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY



Chuck F. Callahan, President

CFC/jkm  
Attachments

Cc: Sylvia Mosser, AICP, Maryland Department of Planning



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JENNIFER L. WILLIAMS, President  
COREY W. PACK, Vice President

DIRCK K. BARTLETT  
CHUCK F. CALLAHAN  
LAURA E. PRICE

November 27, 2017

Kevin Reigrut, Executive Director  
Maryland Transportation Authority  
2310 Broening Highway  
Suite 150  
Baltimore, MD 21224

Re: Chesapeake Bay Crossing Study – Talbot County

Dear Director Reigrut:

Please consider this letter as the Talbot County Council's formal request that Talbot County be removed from consideration as a corridor for any proposed future capacity expansion across the Chesapeake Bay.

While the County Council recognizes that current and future traffic volumes may warrant the need for an additional crossing, Talbot County's road infrastructure is severely insufficient to handle the anticipated increases in traffic.

Sincerely,  
COUNTY COUNCIL OF TALBOT COUNTY

A handwritten signature in black ink, appearing to read "Jennifer L. Williams", is written over the typed name and title.

Jennifer L. Williams  
President

cc: Pete K. Rahn, Secretary, Maryland Dept. of Transportation  
Senator Adelaide Eckardt  
Delegate John Mautz, IV  
Delegate Christopher Adams





COUNTY COUNCIL OF TALBOT COUNTY

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COREY W. PACK, President  
CHUCK F. CALLAHAN, Vice President

FRANK DIVILIO  
PETE LESHIER  
LAURA E. PRICE

December 17, 2019

Melissa Williams, Director of Planning and Program Development  
Maryland Transportation Authority  
2310 Broening Highway  
Baltimore, Maryland 21224

**Re: Chesapeake Bay Crossing Study - Corridor 8 Alternative – Items of Consideration Justifying Denial as “Preferred Corridor Alternative”**

Dear Ms. Williams:

The Talbot County Council is on record with your office against the Corridor 8 proposal moving into the Tier 2 study and as such has several additional items to submit justifying that position. Specifically, the County’s recently updated Comprehensive Plan and related land use documents raise numerous areas of concern that should preclude Corridor 8 Alternative from becoming the “Preferred Corridor Alternative”.

The County has adopted a Chesapeake Bay Critical Area Plan which affects all waterfront areas of the County 1,000 feet landward from the shoreline or the inland edge of tidal wetlands. This action to implement the State’s Critical Area program effectively converted 57,498 waterfront acres to a very low density of one dwelling unit per 20 acres. These areas are characterized by natural environments such as floodplains and wetlands, agriculture, forestry and fisheries, and critical habitat. It is the County’s intent to retain these areas in such uses, in support of the State’s efforts regarding the Chesapeake Bay Critical Area.

The upland portions contiguous to the Critical Area are equally important because of the high concentration of sensitive natural areas in close proximity to the tributaries of the Chesapeake Bay. Like the Critical Area, this area also features a mix of agriculture, low-density residential and natural resource areas.

In addition, these narrow land areas have few routes to inland parts of the County. Flooding, traffic and other road obstructions have demonstrated legitimate cause for concern, should development overcome the capacity for safe transit through these areas.

Ms. Melissa Williams  
December 18, 2019  
Page 2

Conserving the agriculture, forestry, recreational and resource conservation uses that form the character of these areas is a high priority. Detailed zoning regulations have been adopted which direct, manage, control and minimize the adverse impacts of growth of these sensitive areas. The Chesapeake Bay Crossing Study Option 8 alignment would bisect and directly impact the County's most environmentally sensitive areas. The County has adopted detailed zoning regulations to direct, manage, control and minimize the adverse impacts of growth on these areas, including regulations in the Rural Conservation (RC) and Western Rural Conservation (WRC) zoning district.

Specific policy statements of the Comprehensive Plan follow as noted:

- The County is committed to protecting these sensitive environmental areas and future development in the sensitive areas should be primarily characterized by open space, agriculture, forestry, and low-density single-family detached homes (Policy 2.27). New development is restricted in sensitive areas and the protection and enhancement of environmental resources should be ensured (Policy 6.27).
- Agriculture and forest cover should remain the dominant land uses (Policy 2.28).
- Development within the 100-year floodplain associated with the Critical Area is also limited to minimize disturbance and protect life and property (Policy 6.23).
- The County also recognizes the importance of stream corridors as water quality buffers and wildlife habitat and encourages their protection in an undisturbed state (Policy 6.24).
- A County objective is to coordinate with federal and state agencies to preserve existing wetlands where possible and goal of "no net loss" of wetlands (Policy 6.30).
- Maintaining natural topography, drainage ways and tree cover should be a priority when determining the location of roads, placement of structures and site improvements (Policy 6.34).
- Forests and vegetation should be preserved in stream corridors to preserve the integrity of associated waterways (Policy 6.29).
- The County directs intense growth and development away from threatened and endangered species habitat and maintain low density conservation zoning in areas where such habitats are identified (Policy 6.35).

In addition to the County Comprehensive Plan, the County's Green Infrastructure Plan identifies multiple focus areas throughout the County. The Green Infrastructure Plan is an inventory of land and water areas that correspond with conservation priorities based on defined attributes. Two areas in particular would be impacted by Option 8; the Claiborne/Eastern Bay Shores and Miles/Wye East River Peninsula focus areas. Through the Plan, the County has identified these focus areas to enable County leaders to make the most educated conservation and land use decisions and to protect the County's valuable ecological, agricultural and aquatic resources.

Greenway hubs are significant areas that provide for wildlife habitat and biodiversity. They also often have scenic qualities, emphasize cultural and historic resources and include places or trails with historic and cultural values providing educational, scenic, recreational or economic benefits to the community.

Ms. Melissa Williams  
December 18, 2019  
Page 3

Corridor 8 would also impact four of the County's historic villages: Claiborne, Copperville, Tunis Mills and Unionville. These villages are notable among the County's residential areas; they are low density historic residential communities that are an important component of the County's rural character and recognized for their significant heritage and pattern of development. The County is committed to safeguarding these attributes and maintaining their sense of place.

It is for the above outlined reasons that the Talbot County Council is against having Corridor 8 selected as the "Preferred Corridor Alternative". The Council stands ready to discuss this matter with any party necessary to further the case against moving forward with Corridor 8.

Sincerely,

COUNTY COUNCIL OF TALBOT COUNTY



Corey W. Pack, President

CWP/jkm





**Talbot County Department of Planning and Zoning**  
**215 Bay Street, Suite 2**  
**Easton, Maryland 21601**

Phone: 410-770-8030  
Email: mverdery@talbotcountymd.gov

FAX: 410-770-8043  
TTY: 410-822-8735

August 12, 2020

Heather Lowe, Project Manager  
Maryland Transportation Authority  
Division of Planning and Program Development  
Point Breeze 2310 Broening Highway  
Baltimore, MD 21224

Re: Bay Crossing Section 106

Dear Ms. Lowe,

The National Historic Preservation Act mandates the Section 106 process to accommodate historic preservation concerns in consultation with agency officials and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of the project. It is our understanding that the Section 106 process is running parallel to the draft Environmental Impact Statement process. Talbot County and the Historic Preservation Commission appreciates the opportunity to provide comment on the Chesapeake Bay Crossing Study, Tier 1 NEPA (Study).

The Study considers three Corridor Alternatives Reviewed for Analysis (CARA), each two-miles in width and known as the Area of Potential Effects or APE, from an original 14 corridors. It is our understanding that each CARA is designed to connect existing major roadway infrastructure of four lanes or greater and specific roadway alignments for possible crossing locations identified in the Tier 1 Study. Identification of alternative alignments would occur in Tier 2, if Tier 1 concludes with the selection of a Preferred Corridor.

Talbot County's Corridor 8 begins in Annapolis, roughly follows MD 424 and MD 214, crossing the Bay near Mayo, and passing just south of the southern tip of Kent Island, then curves northeast. The corridor returns to land on the Eastern Shore near MD 33, west of St. Michaels. From there, Corridor 8 crosses the Miles River and does not follow the existing roadway network until it ties-in with MD 50 north of Easton.

As a Tier 1 NEPA study, the two-mile wide CARA encompass the area where potential effects from an undertaking may occur. The Area will be re-delineated, based on the location of the alignment alternatives (within the Tier 1 Preferred Corridor) as additional information becomes available about the potential effect on historic properties.

This memo concerns preliminary identification, within Talbot County, of the likely presence of architectural and archaeological (terrestrial and underwater) resources in the APE. The intent was to identify known historic properties and identify the potential for additional properties through recorded or unrecorded resources. In addition to structures, data was reviewed to identify potential underwater archaeological sites not yet recorded by MHT.

Corridor 8 contains the most archaeological resources of the three corridors, with the highest number of NRHP listed or eligible sites, the highest number of unevaluated sites and the highest number of recorded shipwrecks. In total, 17,580 acres may require additional terrestrial survey; the highest among the three corridors.

There are 14 recorded historic properties in Corridor 8 (Table 7-8). Of these, 11 are listed in the National Register of Historic Properties (NRHP) and three have been determined eligible for listing—two by preservation easement. Properties with Maryland Historical Trust (MHT) easements are considered by MHT to be eligible for the NRHP regardless of whether a formal Determination of Eligibility (DOE) has been prepared. In addition, there are 102 resources surveyed for the Maryland Inventory of Historic Properties (MIHP) but not evaluated for NRHP listing, seven roadways listed in the MIHP, and a significant amount (1,115) of unrecorded architectural resources pre-1980.

Buildings in this corridor are also older. Corridor 8 contains 11 18<sup>th</sup> century resources, the most of the three corridors. There are also 35 19<sup>th</sup> century resources. The other 96 percent (1,069) of resources are 20<sup>th</sup> century, only 54 percent (597) of which date to after 1950.

Of serious concern is the impact of Corridor 8, regardless of the final alignment, to the Town of St. Michaels (Town). In the late 1770s, developer James Braddock designed the original street plan of the Town with lots laid out around a central square. The Town is positioned on the Miles River and has a substantial and well-documented stock of historic structures, streetscape, sites and settings. Over 250 structures have been surveyed and documented, forming a largely intact historic district in which houses, churches and commercial structures from the late 19<sup>th</sup> century and earlier are well represented. The Town includes a protected locally-designated historic area and is a National Register District.

Preservation of these structures and streetscapes, and the Town's historical context not only enhance the historic character of the Town, but are also important to its tourism and marine-based economies. St. Michaels attracts visitors from all over the world, bringing much needed revenue that helps sustain the district. The Town, and Talbot County, are also included in the Stories of the Chesapeake Heritage Area and recognizes St. Michaels as offering a number of heritage resources of importance to the region.

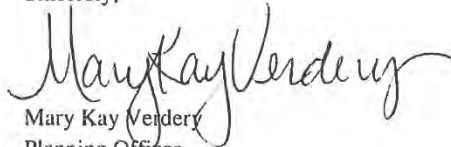
It is of no question that any alignment of a bridge within Corridor 8 will significantly and detrimentally affect the Town's historic recognitions. The juxtaposition of the modern bridge crossing with the Town's view shed from the Miles River and historic harbor will erase the historic context of the Town; the very draw that brings visitors, businesses and cultural attractions to St. Michaels.

Talbot County remains opposed to the Corridor 8 proposal moving into the Tier 2 study. In addition to the effects on cultural, architectural and archeological resources noted in the Tier 1

study; undesirable impacts upon environmental, conservation and infrastructure would result in contrast with the goals and objectives of our Comprehensive Plan. This opposition is outlined in greater detail in the attached December 18, 2019 letter from Talbot County Council President, Corey W. Pack.

Thank you for the opportunity to review and comment. Please contact our department should you require additional information or assistance.

Sincerely,



Mary Kay Vendery  
Planning Officer





**COUNTY COUNCIL OF TALBOT COUNTY**

COURT HOUSE  
11 N. WASHINGTON STREET  
EASTON, MARYLAND 21601-3178

PHONE: 410-770-8001

FAX: 410-770-8007

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[www.talbotcountymd.gov](http://www.talbotcountymd.gov)

COREY W. PACK, President  
CHUCK F. CALLAHAN, Vice President

FRANK DIVILIO  
PETE LESHER  
LAURA E. PRICE

May 8, 2020

Heather Murphy, Director  
Office of Planning and Capital Programming  
Maryland Department of Transportation  
P.O. Box 548  
Hanover, MD 21076

**RE: Talbot County – 2020 Priority Listing**

Dear Ms. Murphy:

The Talbot County Council endorsed the attached list of priority projects for Talbot County at our meeting on April 28, 2020. Please note that this year's listing includes information not only on roads infrastructure, but Easton Airport safety improvements as well.

The Council looks forward to meeting with you and representatives from the Maryland Department of Transportation this fall for the annual Consolidated Transportation Plan meeting. In the meantime, should you have any questions, please contact Ray Clarke, County Engineer, at (410) 770-8170 or Micah Risher, Airport Manager, at (410) 770-8055.

Sincerely,  
COUNTY COUNCIL OF TALBOT COUNTY

A handwritten signature in black ink, appearing to be "C. Pack", written over a horizontal line.

Corey W. Pack  
President

CWP/jkm  
Attachment

Cc: Ian Beam – Rural Area Regional Planner, MDOT  
The Honorable Adelaide Eckardt  
The Honorable Christopher Adams  
The Honorable John Mautz  
Ray Clarke, County Engineer  
Micah Risher, Easton Airport Manager

**TALBOT COUNTY PROJECT PRIORITY LISTING  
FOR THE CONSOLIDATED TRANSPORTATION PROGRAM  
2020**

PRIORITY RANKING	PROJECT DESCRIPTION
1	<p><b><u>MD Route 33 Capacity and Evacuation Improvements</u></b>  During weather-related emergencies such as Tropical Storm Isabel and Hurricane Irene, this corridor experienced areas of significant flooding, limiting ingress and egress from this portion of the county. <i>The MD Route 33 corridor is the sole evacuation route for this populated neck or peninsula.</i> Accordingly, elevation modification to eliminate or minimize storm surge road flooding, as well as capacity improvements, should be pursued to protect the lives and safety of citizens in this area. Also, portions of this corridor between the Town of St. Michaels and the Town of Easton experience some weekday capacity issues which are anticipated to increase in the future. Traffic counts show that portions of MD Route 33 have heavy traffic volume, particularly near its intersection with MD Route 322. As an interim measure, the MD Route 33 corridor should be evaluated for any issues or problems that would need to be resolved in future improvements.</p>
2-A*	<p><b><u>US Route 50/MD Route 328 – Goldsborough Street Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Goldsborough Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
2-B*	<p><b><u>MD Route 50/MD Route 331 – Dover Street Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Dover Street, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
2-C*	<p><b><u>US Route 50/Chapel Road - Intersection Improvements</u></b>  This intersection currently experiences significant traffic volumes for all approaches. The geometric configuration of this intersection possesses many shortcomings on Chapel Road, west of US Route 50. The State should work with the Town of Easton to improve the geometric configuration of this intersection approach and/or provide technical assistance to the Town for diversion of east – west traffic from this intersection.</p>
3	<p><b><u>US Route 50/MD Route 309/MD Route 662 Intersection Capacity Improvements</u></b>  As a result of increasing traffic for the growing Easton Airport, Talbot County Community Center and the likely relocation of the Easton Memorial Hospital to Longwoods Road (MD Route 662), one of our top priorities would be the construction of an overpass that meets FAA requirements and serves these facilities. Moreover, MD Route 309 (Cordova Road) is a significant corridor for vehicular traffic from northern Caroline County (Denton, Ridgely, Greensboro, etc.) to Easton and points south along US Route 50. Left turns between MD Route 309 and US Route 50 commonly back up beyond the turn lanes provided. This turn lane shortcoming should be rectified as appropriate. West of this intersection, extending through the adjacent MD 662 intersection, has poor geometry/intersection spacing. For these reasons, capacity and safety improvements in this area would be beneficial.</p>
4	<p><b><u>MD Route 329 (Royal Oak Road) Safety Improvements</u></b>  This roadway serves as the primary means of ingress and egress for the communities in and around the villages of Royal Oak and Bellevue, in addition to a significant tourism corridor for these communities and beyond. Paralleling MD Route 33, this roadway provides an alternative route for MD Route 33 (see priority number 1 above, evacuation corridor). The importance of this alternative route is compounded considering the aging status of the bridge carrying MD Route 33 over Oak Creek.  <i>An overpass should be planned as a long term solution for Priority Rankings 2-A through 2-C.</i></p>

**Easton Airport**  
**MDOT Funding Priority**  
**April 21, 2020**

**Easton Airport - Runway Safety Improvements**

Easton Airport has completed an environmental assessment to improve the Runway Safety Area (RSA) of the primary Runway 4/22 and shift the runway 1,900 ft. southwest of the current location. This safety improvement will bring the runway into full compliance with FAA design standards. This is critical for the long term financial sustainability of the airport and economic benefits derived by the County. The airport is now moving into implementing the construction solution and will seek to complete phase 1 of 3 of the Obstruction Removal Program in FY2021.

Classified as a "National" general aviation airport by the FAA, Easton Airport supports the national and state system by providing communities with access to national and international markets in multiple states and throughout the country.

Talbot County is requesting MDOT - Maryland Aviation Administration maximize grant funding for Phase 1 Construction of Easton Airport's Obstruction Removal Program, with an estimated project total cost of \$550,000 in FY2021.





### Talbot County Response

The Bay Crossing Study Team appreciates the input provided by Talbot County on the Tier 1 DEIS. MDTA will continue to coordinate with Talbot County throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA Study.

MDTA acknowledges Talbot County's opposition to Corridor 8, and its concern for issues identified including impacts to cultural resources, residential communities, land use, traffic flow, and sensitive natural resource areas. This FEIS/ROD has identified Corridor 7 as the PCA and Selected Corridor Alternative. Other improvements identified by Talbot County are not within the scope of the Bay Crossing Study, but they may be funded and implemented separately. All analysis and No-Build conditions would be updated as necessary during Tier 2 to reflect other projects planned or completed.

## US Coast Guard Comment

**U.S. Department of  
Homeland Security**

**United States  
Coast Guard**



Commander  
United States Coast Guard  
Fifth Coast Guard District

431 Crawford Street  
Portsmouth, VA 23704-5004  
Staff Symbol: dpb  
Phone: (757) 398-6587  
Fax: (757) 398-6334  
Email: [Mickey.D.Sanders2@uscg.mil](mailto:Mickey.D.Sanders2@uscg.mil)  
or [CGDFiveBridges@uscg.mil](mailto:CGDFiveBridges@uscg.mil)

16591  
20 MAY 2021

Ms. Jeanette Mar  
Environmental Program Manager  
FHWA – Maryland Division  
George H. Fallon Federal Building  
31 Hopkins Plaza, Suite 1520  
Baltimore, MD 21201

Dear Ms. Mar:

The Coast Guard has reviewed the Chesapeake Bay Crossing Study (Draft Environmental Impact Statement) document of February 2021.

The Coast Guard has no objection to the decisions and findings contained in the document.

The Coast Guard will continue to participate in the Chesapeake Bay Crossing Study NEPA process and will provide letters to document the Coast Guard's review of NEPA documents, in lieu of signing the agreement documents. The Coast Guard will either provide a "statement of no objection" or "statement of objection", inclusive of a detailed rationale for the objection.

If you have any questions, please contact Mr. Mickey Sanders at the above listed address, email or telephone number.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hal Pitts".

HAL R. PITTS  
Bridge Program Manager  
By direction

Copy: CG Sector Maryland-National Capital Region, Waterways Management

### US Coast Guard Response

The Bay Crossing Study Team appreciates the input provided by the U.S. Coast Guard (USCG) on the Tier 1 DEIS. MDTA will continue to coordinate with USCG throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA Study.



## US Environmental Protection Agency Comment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

May 10, 2021

Jeanette Mar  
Federal Highway Administration  
George H. Fallon Building  
31 Hopkins Plaza, Suite 1520  
Baltimore, Maryland 21201

Re: Chesapeake Bay Crossing Study: Tier 1 NEPA, Draft Environmental Impact Statement,  
Maryland, CEQ No. 20210024

Dear Ms. Mar:

The U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Federal Highway Administration's (FHWA) Tier 1 Draft Environmental Impact Statement (Tier 1 DEIS) for the Chesapeake Bay Crossing Study in Maryland (CEQ No. 20210024) pursuant to EPA's responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA).

The Federal Highway Administration and the Maryland Department of Transportation (MDOT) have conducted a Tier 1 study to consider new corridor alternatives for providing capacity and access across the Chesapeake Bay and improving mobility, travel reliability, and safety at the existing Bay Bridge. The Tier 1 DEIS provides a comparative analysis between the No-Build Alternative and three corridor alternatives. The Tier 1 DEIS also identifies the Maryland Transportation Authority's (MTA) Recommended Preferred Corridor Alternative (RPCA) as Corridor 7.

EPA is a Cooperating Agency in the project and has been involved with early coordination efforts including Concurrence on Draft Purpose & Need (8/1/2018), Concurrence on Alternatives (2/26/2020), and review of technical documents. EPA appreciates the lead agencies' responses and willingness to discuss comments or concerns throughout the early coordination efforts.

EPA's enclosed comments include notable emphases on two subject matter areas, Environmental Justice and Climate Change. The Environmental Justice comments are intended to support fair treatment and meaningful involvement for all people, including historically underserved communities. The Climate Change comments are intended to focus on preventative measures and mitigating factors to limit contributions toward global greenhouse gas emissions, temperature rise, and sea level rise.

EPA appreciates the opportunity to remain involved in the project design, review, and planning processes. We look forward to continued cooperation in the development of the Final Environmental Impact Statement (FEIS). If you have any questions regarding our comments, please feel free to contact Timothy Witman at (215) 814-2775 or by email at [Witman.Timothy@epa.gov](mailto:Witman.Timothy@epa.gov).

Sincerely,

**STEPAN**

**NEVSHEHIRLIAN**

Digitally signed by STEPAN  
NEVSHEHIRLIAN  
Date: 2021.05.10 16:28:47 -04'00'

Stepan Nevshehirlian

Environmental Assessment Branch Chief

Office of Communities, Tribes and

Environmental Assessment

Cc: Heather Lowe, MTA

Enclosure

**Enclosure**  
**Technical Comments**

**Chesapeake Bay Crossing Study: Tier 1 DEIS, Maryland, CEQ No. 20210024**

**General**

- This Tier 1 DEIS concerns part one of a two-tiered NEPA review process. The first tier involves selecting a Corridor Alternative for potential future bridge planning and construction. The Tier 1 DEIS identifies Corridor 7 as the RPCA. Given that the lead agencies do not plan to identify a final alignment in the selected Corridor Alternative until Tier 2, it may promote transparency and public discourse if the project commits to informational updates for the public concerning identified impacts and mitigation as the process proceeds to Tier 2.

*Recommendations*

EPA suggests for the FEIS to develop and release commitments for Tier 2 (if initiated) to inform regulators and the public of potential impacts and mitigation opportunities associated with the selection of the eventual final alignment. Development of a list of commitments could help to clarify expectations among the public and regulators regarding public and interagency involvement and may be included in the FEIS and ROD.

- The Tier 1 DEIS appears to utilize the Maryland Statewide Travel Model with a projected planning horizon year of 2040. Given that the proposed project is a large infrastructure project that will take significant time to design and construct, this time horizon may limit the duration for which the potential project results satisfy local transportation needs.

*Recommendations*

EPA recommends that the project consider a planning horizon to a point beyond 2040. For example, the project may want to consider a horizon of approximately 30 or 40 years if such modeling is feasible. This analysis may include projections of levels of service and traffic demands relative to both the current day and the expected project completion date. Revisiting the planning horizon may also allow for considerations of travel demand changes in light of the COVID-19 pandemic.

**Environmental Justice**

- EPA recognizes that the Tier 1 DEIS provides tables, charts, and maps that identify conditions concerning socioeconomics and Environmental Justice (EJ) in the Study Area. The Tier 1 DEIS does not appear to utilize the EJSCREEN mapping tool in its analyses. EJSCREEN is a publicly accessible, web-based EJ mapping and screening tool that provides a nationally consistent data set and approach for combining environmental and demographic indicators. EJSCREEN data may help to clarify environmental stressors and impacts to local populations. EPA provides the caveat that EJSCREEN is simply a screening tool and that its values are approximations that may require community-level communication and outreach for verification.



*Recommendations*

EPA suggests that the project utilize EJSCREEN to support screening-level EJ analyses for the project headed forward. EPA is willing to assist the project's incorporation of EJSCREEN through meetings, tutorials, and/or the sharing of publicly available resources.

- On page 4-16, the Tier 1 DEIS states that "[n]o disproportionately high and adverse impacts to potential EJ minority race or Hispanic and Latino populations are expected to occur in Corridors 6, 7, or 8 based on the Census Tract level evaluation." EJSCREEN's EJ Index metrics indicate potentially elevated impacts to people of color populations in the context of both air pollutants and traffic proximity at the block group level. Numerous block groups in the area reflect EJ Index values that exceed the 80th percentile nationally for air pollutants and traffic proximity.

*Recommendations*

EPA reiterates its recommendation to utilize EJSCREEN and further recommends screening local communities at the block group level rather than the Census tract level where feasible. Given that EJSCREEN provides screening-level data at the block group level, the tool may provide greater data granularity than analyses of Census tracts. EPA also suggests engaging communities to address and verify screening-level findings.

- The Tier 1 DEIS appears to apply the Socioeconomic Study Area as a baseline unit of geographic analysis for comparisons of local demographics. For example, on page 4-13, the Tier 1 DEIS states, "Census Tracts that exceed the Socioeconomic Study Area percentage below the poverty level by 10 percentage points or more, or 15.4 percent, are identified as potential low-income EJ Census Tracts." This Socioeconomic Study Area seems to be a less inclusive baseline reference area for comparisons of minority population and/or low-income population than broader reference areas such as the state, region, or country.

*Recommendations*

EPA suggests that the project clarify the rationale to characterize minority and/or low-income populations relative to the project-specific Socioeconomic Study Area rather than a state, regional, or national point of reference. EPA encourages consideration of those broader areas given that broader demographic records can be key analytical considerations for determining adverse or disproportionate impacts to local individuals and/or communities.

- EPA notes that the Tier 1 DEIS considers FHWA's *Guidance on Environmental Justice and NEPA* (2011) within the Environmental Justice in Minority and Low-Income Population section; however, references in the DEIS do not appear to reflect consideration of CEQ's *Environmental Justice Guidance Under the National Environmental Policy Act* (1997).

*Recommendations*

To the extent that the DEIS has not considered and incorporated CEQ's Environmental Justice Guidance, EPA encourages the FEIS to apply the recommendations from that document for identifying both minority and low-income populations. CEQ's Environmental Justice Guidance may also provide helpful recommendations concerning outreach, mitigation, and broader communication concerning areas of potential EJ concern. In addition, *Promising Practices for EJ Methodologies in NEPA Reviews* (2016) may serve as another helpful resource concerning EJ analyses, outreach, and mitigation.

## Climate Change

### *Green House Gas Emissions*

- Section 4.6.5 notes the current lack of federal mandated project planning requirements regarding the consideration of greenhouse gas (GHG) impacts for transportation projects. The section also notes that the State of Maryland does not require GHG analysis at the project level. EPA appreciates that MDOT is exploring strategies and programs aimed at reducing GHG emissions in conjunction with Maryland's Greenhouse Gas Emissions Reduction Act, which requires a 40 percent emissions reduction from 2006 levels by 2030.

### *Recommendations*

EPA recommends the Tier 1 DEIS include information regarding how the project will be consistent with the Council for Environmental Quality's February 19, 2021, Federal Register notice rescinding the 2019 Draft Green House Gas (GHG) Guidance, how the Project is considering all available tools and resources in assessing GHG emissions and climate change effects of the proposed actions, including, as appropriate and relevant, the Final Guidance for Federal Department and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews (2016 GHG Guidance).

### *Sea-Level Rise*

- EPA appreciates the comparative projections in the Tier 1 DEIS for the total amount of land area susceptible to sea level rise through 2100; however, EPA is also concerned that the RPCA, Corridor 7, contains the highest amount of total land area susceptible to sea level rise of all Corridor Alternatives based on the projections for 2050 and 2100.

EPA also appreciates that the Tier 1 DEIS identified suggested adaptive management strategies, including installing flood barriers, elevating specific elements of critical infrastructure above the projected flood elevations, moving facilities to higher ground, designing assets for quick restoration after an extreme weather event, and evacuation route planning.

### *Recommendations*

In comparison to other Corridor Alternatives, Corridor 7 has a great deal of existing buildings, roadways, and other infrastructure. The selection of Corridor 7 may limit the range of sea level rise management strategies that are available due to constraints from the existing development. EPA recommends that the Tier 1 DEIS provide additional details and clarification regarding how a project would implement the management strategies identified by FHWA and commit to the implementation of specific strategies in the FEIS and ROD.

## Aquatic Resources - Wetlands and Waters of the United States

### *Aquatic Resources and Water Quality*

- Baseline information on aquatic resources is important in assessing the impacted resources and guiding the standards for the proposed mitigation. EPA appreciates that a site-specific submerged aquatic vegetation survey will be conducted once a study area is identified.



*Recommendations*

EPA recommends that should the project progress to Tier 2, the Tier 2 DEIS include function-based wetland and stream assessments to quantify existing site conditions. At a minimum, baseline information to aid in determining the function and condition of the resources impacted should include data, such as but not limited to, hydrogeomorphic classification, source(s) of hydrology, vegetative species diversity, ecological community groups(s), invasive cover, disturbance history, habitat equivalency assessment/benthic community assessment, Rapid Bioassessment Protocol, Maryland Biological Stream Survey, and basic water quality data (dissolved oxygen, conductivity, etc.). Photos, measurements, and other supporting information that confirm the findings should be provided.

- Wetlands and mudflats are both considered Special Aquatic Sites under Clean Water Act (CWA) regulations and are defined as areas that possess special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. Specifically, mudflats serve as a transitional zone within the tidal marsh continuum, providing protection to low marsh, mid/high marsh, and upland habitat. Impacts to mudflats can result in a loss of values, such as increased rate of erosion or accretion, changes in chemical and biological exchanges, diminished capacity to dissipate storm surge runoff, and depletion or elimination of mudflat biota, foraging areas, and nursery areas. Impacts to these areas can exacerbate degradation of the overall aquatic ecosystem.

*Recommendations*

EPA recommends avoiding and minimizing direct, secondary, and cumulative impacts to these areas to the greatest extent practicable. Documentation of such efforts should be included to help determine consistency with regulations such as the CWA Section 404(b)(1) Guidelines.

EPA recommends for the Tier 2 DEIS that a detailed alternatives analysis evaluate all available alternatives that meet the project purpose and identify all practicable measures to avoid and minimize impacts to aquatic resources.

EPA also recommends that this alternatives analysis include additional information describing how the site selection and project design considered habitat use for sensitive species, including nursery habitat, spawning, and migration.

*Compensatory Mitigation*

- Once it is determined that all appropriate and practicable steps to avoid and minimize adverse impacts have been taken, compensatory mitigation is then considered. EPA offers the following recommendations for consideration as the mitigation proposal is developed.

*Recommendations*

EPA recommends that the Tier 2 DEIS include a mitigation statement or narrative that describes how the project proposal will adequately compensate for unavoidable permanent and temporary impact to waters.

EPA also recommends developing an Adaptive Management Plan that outlines measures to be taken if the site fails to meet the performance standards.

To avoid temporal loss of wetland and stream functions, EPA recommends that the compensatory mitigation be conducted concurrent with or prior to impacting on-site aquatic resources. If this mitigation cannot be achieved, replacement ratios greater than one-to-one may be necessary to address temporal loss and to increase probability of success.

#### **Drinking Water**

- EPA observes that there are no sole source aquifers within the study area; however, there appear to be a significant amount of well-head protection areas. Although the Tier 1 DEIS indicates that an assessment of well-head protection areas will occur during Tier 2, this information may be relevant to regulators and the public as part of Tier 1.

##### *Recommendations*

EPA recommends that the project work with the Maryland Department of Environment to determine if the RPCA or finalized Corridor Alternative will have an impact to well-head protection areas. EPA further suggests that the EIS consider mitigation measures that may include avoidance and minimization.

#### **Indirect and Cumulative Effects**

- EPA notes that the indirect effect and induced growth analysis for the study has considered the potential for induced growth through the use of 0-to-30-, 30-to-45-, and 45-to-60-minute travel bands extending from major employment centers.

##### *Recommendations*

EPA suggests that this analysis consider the recent travel changes that may have evolved in regional remote work habits over the past year. For instance, the analysis may seek to consider whether the COVID-19 pandemic fostered more frequent remote work and/or affected the typical commute time traveling to and from employment centers. Because of these changes, longer, less frequent commutes could occur. Therefore, the analysis may want to consider increasing the timeframes within travel bands. EPA recommends that the analysis consider how an increase in remote work may influence the indirect effects and induced growth analysis.

#### **Hazardous Materials**

- Section 4.5.1 describes low, medium, and high priority rankings based on facility characteristics. Although site-specific documentation in Appendix C identifies which criteria pertained to each evaluated site, the Tier 1 DEIS text does not appear to clarify whether each ranked site must meet all criteria, one criterion, or any other combination based at the determined priority ranking level. This generality may steer the public toward misinterpreting or misunderstanding the system.



*Recommendations*

EPA suggests that additional information be included that clarifies the weight or significance of different criteria within each ranking. It may be helpful to explain that a site does not need to meet all criteria, but only needs to meet one or multiple criteria (if such direction is accurate).

- EPA notes that the Tier 1 DEIS does not appear to indicate whether each identified site is operationally active or inactive. Inclusion of this information may be helpful for the public to understand the potential scope and implications of operations and hazards at a location.

*Recommendations*

EPA recommends that additional information be included in the FEIS to clarify the operational status of each identified hazardous materials location for public benefit.

- As stated in the Hazardous Materials Technical Report (via Appendix C), “At this time, it is unknown how many potential hazardous materials sites would be impacted or be able to be avoided by a specific alignment. Based on the desktop database evaluation, all identified sites can potentially be avoided during the alignment planning phase.”

*Recommendations*

EPA suggests that clarification be provided as to why it may not be feasible to avoid a site (and to provide specific site examples as needed) given the projected width of each Corridor Alternative. In addition, EPA recommends that information be included regarding how the project will minimize impacts to sites that the project has not identified in Appendix C, but which it may identify in the future as part of a potential Tier 2 Initial Site Assessment. It may also be helpful to further explain how sites that may be discovered during construction would be documented, what steps would be taken to limit any impacts to those previously unidentified sites, and what protections workers may receive against unidentified hazards.

**Air Quality***General Conformity*

- The Clean Air Act (CAA) outlines transportation conformity requirements for highway projects involving FHWA approval to ensure that air quality goals will be met with project implementation. Transportation conformity applies in geographic areas identified by EPA as having exceeded National Air Attainment Quality Standards (NAAQS) for transportation-related pollutants. For projects in these areas, a transportation conformity determination must be completed prior to approval of the final NEPA document.

EPA recognizes that Corridors 6, 7, and 8 are each located within 2008 Ozone and 2015 NAAQS nonattainment areas as well as 1997 orphan maintenance.

EPA also recognizes that an alignment for each Corridor Alternative would not be determined until a potential Tier 2 study and that it may not be feasible to specify all resources that could be affected by a given alignment in Corridors 6, 7, or 8. Accordingly, completion of a conformity determination would need to occur during a potential future Tier 2 analysis.

*Recommendations*

If the project proceeds to Tier 2, EPA recommends the completion of a conformity determination in accordance with applicable statutes and regulations. EPA recognizes that completion of this determination may be dependent on determining and evaluating the final Corridor Alternative and final alignment for the project.

## US Environmental Protection Agency Response

The Bay Crossing Study Team appreciates the input provided by the U.S. Environmental Protection Agency (EPA) on the Tier 1 EIS. MDTA will continue to coordinate with EPA throughout the remainder of the Tier 1 NEPA Study, and in a potential future Tier 2 NEPA study.

### General

- MDTA appreciates the recommendation regarding commitments to provide information updates to the public during a future Tier 2 NEPA study. If a future Tier 2 study is initiated, MDTA would implement a robust public and agency outreach program throughout all phases of the study. Agency and public updates at major milestones of a Tier 2 study such as scoping, alternatives development, and EIS publication would ensure timely release of information on subjects such as impacts, mitigation, and potential alignments. The Record of Decision (**Chapter 7** of the combined FEIS/ROD) provides a discussion of commitments and next steps, which outlines activities that would be included in a future Tier 2 study.
- Forecasts of 2040 traffic volumes were prepared using the Maryland Statewide Transportation Model (MSTM). If a future Tier 2 NEPA study is initiated, an updated traffic analysis would be conducted which would have an updated planning horizon. In addition, MDTA has included supplemental information regarding the effects of the COVID-19 pandemic on traffic in **Chapter 3** of the FEIS.

### Environmental Justice

- MDTA has included a supplemental discussion of environmental justice at the block group level using the recommended EJSCREEN tool in **Chapter 3** of the FEIS.
- MDTA appreciates the recommendation to clarify the rationale to characterize minority and/or low-income populations relative to the project-specific Socioeconomic Study Area. As detailed in **DEIS Section 4.1.4**, Census Tracts are considered potential locations of low-income or minority populations if the population below the poverty level and/or identifying as minority race or ethnicity:
  - Is greater than 50 percent; or,
  - Is 10 percentage points or more over the average percentage of the overall Socioeconomic Study Area (all Census tracts that comprise the study area).

**DEIS Tables 4-6 and 4-7** include the State of Maryland as a point of comparison to the Socioeconomic Study Area. These tables show that the Socioeconomic Study Area has a lower percentage of population below the poverty level, and lower proportions of population identifying as minority race or ethnicity compared to the state. Based on the above methodology, using the Socioeconomic Study Area as the reference area is more inclusive than using the State of Maryland as a reference area, because it results in a lower threshold compared to the state. For example, ten percentage points above the State of Maryland minority race percentage would result in a threshold of 19.6 percent or greater (9.6 percent plus 10 percentage points), whereas using the Socioeconomic Study Area for reference results in a threshold of 16.2 percent or greater (6.2 percent plus 10 percentage points). A lower threshold results in a more inclusive evaluation of low-income and minority populations. This same rationale applies to regional and nationwide comparison.



- MDTA appreciates the recommendation to apply CEQ's *Environmental Justice Guidance Under the National Environmental Policy Act* (1997) and *Promising Practices for EJ Methodologies in NEPA Reviews* (2016). The DEIS summarizes the more detailed discussion included in the Socioeconomic Technical Report, which notes that the BCS has followed the guidance included in the CEQ *Environmental Justice Guidance Under the National Environmental Policy Act* (1997). **Chapter 2 of the FEIS** includes an updated reference to this guidance. MDTA has reviewed *Promising Practices for EJ Methodologies in NEPA Reviews*, and the analysis included in this Tier 1 EIS (and supporting Socioeconomic Technical Report) is generally consistent with its recommendations, where applicable. MDTA would further consider the recommendations and best practices for a more detailed study of potential EJ populations and targeted EJ outreach in a potential future Tier 2 study.

#### Climate Change

- MDTA appreciates the recommendation to broaden the discussion on greenhouse gas (GHG) impacts. **Chapter 3** of the FEIS includes a detailed discussion on GHG emissions and a qualitative analysis for the Tier 1 NEPA study.

#### Sea-Level Rise

- MDTA appreciates the recommendation to broaden the discussion on climate change resiliency and sea-level rise. **Chapter 3** of the FEIS includes a detailed discussion on sea-level vulnerability within Corridors 6, 7, and 8. In addition, **Chapter 3** of the FEIS includes a discussion of sea level rise resiliency strategies. Due to the broad, conceptual nature of the Tier 1 Corridor Alternatives, engineering details needed to identify specific resiliency strategies (such as crossing type and alignment locations) are not available at this stage. Further analysis of sea level rise resiliency strategies would be assessed in a potential future Tier 2 NEPA study for Tier 2 alignment alternatives.

#### Aquatic Resources – Wetlands and Waters of the United States

- MDTA would conduct field investigations to gather data on aquatic resources including function and conditions of wetlands and waters of the US in a potential Tier 2 NEPA study.
- MDTA would analyze and document avoidance and minimization measures to reduce impacts to resources in accordance with applicable regulations, including wetlands, mudflats and sensitive species habitats, when determining a potential alignment if a Tier 2 NEPA study is initiated. The Tier 2 study alternatives analysis would evaluate all available alternatives that meet the project purpose and identify all practicable measures to avoid and minimize impacts to aquatic resources and would include additional information describing how the site selection and project design considered habitat use for sensitive species, including nursery habitat, spawning, and migration.
- MDTA would coordinate with regulatory agencies regarding the development of an acceptable mitigation plan if a Tier 2 study is initiated. The plan would include but not be limited to how the mitigation will compensate for impacts, how adaptive management would be implemented to remediate performance issues, and proposed timing of mitigation installation as appropriate.

### Drinking Water

- Specific potential impacts and mitigation measures for well-head protection areas are not feasible to identify in the absence of roadway alignments. MDTA anticipates that any improvements within wellhead protection areas would include the implementation of best management practices in stormwater management and erosion and sediment control (ESC) to avoid impacting groundwater resources. Implementing measures such as well-maintained ESC during construction and stormwater BMPs designed to route runoff away from well-head protection areas for treatment, while also capturing sediment and potential contaminants before they are released into the surrounding environment could minimize the potential for groundwater impacts. In addition, modern SWM BMPs are designed to promote and maintain current infiltration rates to the greatest extent practicable to ensure that recharge of the local water table and shallow aquifers is maintained to preserve local groundwater quantities. Other specific mitigation measures, such as locating staging and fuel storage areas away from wellhead protection areas and implementing herbicide application bans for ROW maintenance in those areas could also be considered depending on the nature of the resource and specific roadway alignment. However, given the broad nature of the Tier 1 corridor-level analysis, the appropriate level of detail needed to provide context for the discussion of wellhead protection areas is better suited for a potential future Tier 2 study.
- MDTA does not anticipate that the presence of well-head protection areas would substantially affect the comparison between corridor alternatives and the identification of Corridor 7 as the Preferred Corridor Alternative at the Tier 1 level of detail because the mitigation and avoidance measures could be implemented in any corridor to avoid groundwater resource impacts. Therefore, MDTA would coordinate with Maryland Department of the Environment regarding potential impacts and mitigation measures, including avoidance and minimization, in a potential future Tier 2 NEPA study.

### Indirect and Cumulative Effects

- MDTA has included a discussion on the COVID-19 pandemic and its impacts on travel patterns in **Chapter 3** of the FEIS. If a Tier 2 NEPA study is initiated, the continuing impacts of the pandemic and recovery would be assessed in that study. Regarding potential indirect effects and induced growth, it is anticipated that any changes in overall commuting patterns would affect each of the corridors in a similar manner (such as increasing the commute areas) and would not change the relative comparison between the corridors. Additional evaluation of potential indirect effects from induced growth resulting from a new crossing in Corridor 7 would be included in a potential future Tier 2 study.

### Hazardous Materials

- Clarification of the ranking methodology is included in **Section 4.0 of the Hazardous Materials Technical Report** which notes, “While facilities/sites may have characteristics applicable to more than one rank, for the purposes of this Study, each site was assigned the highest applicable priority ranking as a default.” The Hazardous Materials Technical Report is incorporated by reference into the EIS.

- Specific details about hazardous materials sites, such as operational status, would be more appropriately discussed in a potential future Tier 2 study when more specific alignment alternatives are developed. Because of the broad nature of the Tier 1 study, the corridor alternatives include many hazardous materials sites that may not be impacted by a new crossing within the corridor; this information would not be known in detail until a potential future Tier 2 study. It is not anticipated that the operational status of hazardous materials sites would be necessary for a Tier 1-level comparison between the corridor alternatives. However, this information would be included in a potential future Tier 2 study as appropriate.
- MDTA would consider including additional information on the feasibility of avoiding hazardous materials sites if a potential alignment is identified during a future Tier 2 NEPA study. Mitigation and minimization considerations, such as hazardous material safety and disposal during construction would be addressed in a potential future Tier 2 study.

#### Air Quality

- MDTA would complete a conformity determination in accordance with applicable statutes and regulations to ensure that air quality goals will be met with project implementation if a Tier 2 NEPA study is initiated.