Appendix – R-8
DEIS Comment Period Comments and Responses

Comment Number	FEIS Section	Comment	Response
79	I.	The ICC is vital to the economic health of our region.	The ICC is expected to have numerous economic benefits to the region including; increase travel reliability, travel time savings, generation of considerable number of business establishments, and vehicle operation cost savings.
80	I.	The outrageous invocation of the notion of Homeland Security in this DEIS is an insult when the impact of the ICC on the most serious threat to our future well being, global climate change, is not even addressed.	Some comments questioned the inclusion of the environmental stewardship and/or homeland security elements in the ICC's P&N Statement. (In terms of the overall public and agency coordination process that went into the drafting of the P&N Statement, see above response.) Environmental stewardship (ES) features were incorporated into the ICC project in recognition that past urban and suburban development within the study area has resulted in long term impacts that will require steps above and beyond the norm to reverse adverse trends. ES measures have been incorporated previously on many transportation projects. At the national and state levels, ES is being provided more frequently in recognition of the social and natural environmental connections that transportation projects often have. The Federal Highway Administration (FHWA) actively promotes environmental stewardship through its Vital Few Environmental Stewardship and Streamlining Goal (Environment VFG) See http://environment.fhwa.dot.gov/strmlng/vfovervw.htm. For example, Executive Order 13274, issued by the President on September 18, 2002, directed federal agencies to "promote environmental stewardship in the nation's transportation system" and to streamline environmental reviews for transportation projects. Including "environmental stewardship" as part of the purpose and need for the ICC is consistent with this directive. The ES features have been developed based on extensive involvement from the local, state and federal resource agencies and are being considered by the lead agencies in addition to mitigation measures that will be identified as commitments in the Record of Decision. The types of projects considered include, but are not limited to: providing pedestrian/bicycle trails; rehabilitation of historic structures; providing sidewalks for communities and schools; riparian buffer enhancement and/or reforestation; stream restoration; storm water management improvements; and special protection area best management practices. See ICC Environmental Stewardship Technical Memorandum, I-270 to US 1 (SHA 2004); see also Table VI-6 (list of contemplated ES projects). Each of the build alternatives and sub-options considered contemplate adoption of the ES features described in the FEIS. Therefore, the ES features, developed in coordination with the Inter-Agency Working Group, satisfy the ES element of the P&N Statement equally for all build alternatives. The study incorporated the Maryland State Highway Administration's Context Sensitive Design (CSD) approach, which now has expanded into a Context Sensitive Solutions (CSS) approach. The MSHA has been a national leader in this approach through its Thinking Beyond The Pavement (TBTP) initiative of 1999. This approach is a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic, and environmental resources, while maintaining safety and mobility. CSS/CSD is an approach that considers the total context within which a transportation improvement project will exist. Through the CSS/CSD/TBTP initiatives, numerous policies and procedures are now integrated into the project development process as well as the design and construction process to consider the context and surroundings of a project. The environmental stewardship concepts integrated into the Intercounty Connector project development incorporate and advance the principles of the CSS/CSD/TBTP approach already in practice at the Maryland State Highway Administration. The incorporation of environmentally responsible design features and the proposal of environmentally sensitive construction features with consideration of the local context are consistent with the CSS approach. The alignments and profiles have been developed to minimize natural and community impacts, while preserving community vistas and connectivity. The team continues to develop a conceptual aesthetic theme for bridges, walls and landscape features that both supports the diverse set of communities and the driver's perspective. In addition, the identification and prioritization of environmental stewardship projects are accomplished through a collaborative and context-sensitive approach with input from local, state and federal agencies. Regarding homeland security initiatives, the ICC would provide much needed system capacity and redundancy to the State and the National Capital region for population evacuation and emergency vehicle access. See FEIS, Section I.E. The study area, which lies just north of Washington, D.C., has experienced enormous planned growth over the last 40 years. In that area, no limited access east-west highway exists between the Capital Beltway and I-70, a distance of about 25 miles. The ICC was always planned to serve this growing area in Montgomery and Prince George's Counties. On September 11, 2001, it became clear that a mass evacuation can cause gridlock in the Nation's transportation network. While it is impossible to build enough capacity to accommodate the extraordinary demands of a mass evacuation, the experiences on 9/11 and the more recent experiences of New Orleans and Houston during Hurricanes Katrina and Rita highlight the need for a highway system with the flexibility and capacity to handle surges of high volume traffic in emergency events. The need for enhanced mobility between the two Interstate corridors north of the Nation's capital is thus a legitimate concern for elected officials and planners. Additionally, if there is an incident on the Capital Beltway north of the District of Columbia, no other highway exists between I-95 and I-270 to even conceivably take its place as an alternate route. See also 23 U.S.C. 103(b)(1)(B) (the National Highway System "shall meet national defense requirements"), 23 U.S.C. 103(2)(D) (the National Highway System consists of "a network of highways that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime."). MDOT, through its Office of Engineering, Procurement and Emergency Services, has noted that the biggest bottlenecks during an emergency evacuation or response effort would occur at the intersections of major radial and circumferential highways that meet at-grade. Circumferential highways with grade-separated interchanges provide the best service during evacuations by allowing critical lateral flow and turning movements without impacting radial flow. The Capital Beltway would not have the necessary capacity to serve this purpose. In the study area there is no other continuous circumferential highway with interchanges that can serve this pressing purpose. The ICC would fill this need. Greenhouse gasses, which may lead to global warming are not Criteria Pollutants. Therefore are not required to be analyzed and are not included in the FEIS. Volatile Organic Compounds (VOC) and other Ozone precursors were analyzed by MWCOG and are available in the "AIR QUALITY CONFORMITY DETERMINATION OF THE 2004 CONSTRAINED LONG RANGE PLAN AND THE FY2005-2010 TRANSPORTATION IMPROVEMENT PROGRAM FOR THE WASHINGTON METROPOLITAN REGION" published by MWCOG. The Air Quality Conformity Determination for the 2004 Update to the CLRP and FY 2005-2010 TIP, which included the ICC, demonstrated that 2030 levels would be less: 36.3 tons/day for VOC and 34.8 tons/day for NOx. These levels are below the Emissions budget of 98.1 tons/day for VOC and 237.4 tons/day for NOx and, therefore, conform to the requirements of the Clear Air Act. EPA lists 21 toxic and carcinogenic air pollutants due to motor vehicle emissions. Of these, six are listed as Priority Pollutants. The analysis of air toxics is an emerging field. The Federal Highway Administration (FHWA) and EPA are currently working to develop and evaluate the technical tools necessary to perform air toxics analysis. An effort was made, and included in the FEIS, to approximate future MSAT emissions under the project alternatives. Based on this approach, while it is likely that any of the Build Alternatives will result in slightly higher MSAT emissions over the No Build case; future MSAT emissions under both the Build and No Build scenarios will be significantly lower than present day emissions. A summary of this analysis has been included in the FEIS.

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942	IV.F.5.	The MDE regulations may not be on par with nationally-accepted consensus standards or may not be equivalent to standards accepted/recommended by the Federal Highway Administration or U.S. Environmental Protection Agency.	The MDE's "2000 Maryland Storm Water Design Manual", the basis for all storm water designs in Maryland, was written by the Center for Watershed Protection, a nationally recognized non-profit organization. MDE's "1994 Standards and Specifications for Soil Erosion and Sediment Control" are the industry standard in Maryland, and state agencies along with any developer, must get prior approval from MDE for any deviations from these standards, even what appear to be intuitive improvements. Because MDE is the plan review authority, SHA and MdTA must follow MDE standards at a minimum or risk not getting an approval. MDE's criteria is nationally known to be one of the most stringent and environmentally sensitive.
943	IV.F.5.	DEIS page IV-172, 4th paragraph. Contrary to what is implied, building the ICC would affect the scenic and aesthetic qualities of the tributaries and streams protected as State-listed scenic and wild rivers. The SHA cannot rely on the tastes of bureaucrats at DNR sitting in offices to evaluate impacts. Instead, the SHA must provide copies of right-of-way designs for public review and comment to determine if scenic and aesthetic sensitivities are affected.	In accordance with the National Environmental Policy Act (NEPA), the Lead Agencies have made efforts to avoid and minimize impacts to streams. This effort has included field reviews with representatives of local, state and federal regulatory agencies and a consensus with these agencies regarding the type of construction in the vicinity of each stream. Also, commitments have been made to exceed the required ESC and SWM requirements. Please refer to Appendix A for right-of-way lines.
944	IV.F.5.	There are already drainage and flooding problems in the study area and building the ICC will make them worse.	Off-site drainage issues will be investigated during the design phase of the ICC. Flooding problems will be identified, and the roadway will be designed in accordance with State Highway Administration guidelines for stormwater drainage.
945	IV.F.5.	DEIS proposes the following stringent measures to protect the reservoir with Corridor 2. Why wouldn't similar measures be proposed in Paint Branch?	Spill containment has not been identified as a significant issue on the ICC outside of areas draining to the reservoir because the reservoir supplies drinking water to between 550,000 and 650,000 and is back-up to 900,000 people. Reservoirs tend to hold pollutants much longer than streams. Streams have the characteristic of flushing pollutants that reach them through the system rapidly as compared to lakes that have long residence times.
946	IV.F.5.	The DEIS discussion on impacts to waterways, per Corridor 1 and 2, are not included.	The DEIS discusses impacts to waterways in Chapter IV, Environmental Consequences, Section 5, Surface Water Resources, Section 6, Aquatic Biota, and Section 7, Waters of the U.S. including wetlands.
947	IV.F.5.	Water quality degradation of 2 percent will cause loss of native brook trout.	No native brook trout are known to occur in the ICC study area. The reference in the DEIS to the sensitivity of brook trout to impervious surfaces (p. IV-175) has been removed from the FEIS to avoid confusion.
948	IV.F.5.	The DEIS is silent on water quality impacts.	Chapter IV, Section F.5 of the DEIS evaluates water quality impacts both qualitatively and quantitatively through calculation of additional impervious surfaces. Some additional modeling was also conducted for the reservoir watershed and has been included in Chapter IV, Section F.5.c of the FEIS.
949	IV.F.5.	Page IV-134 requires that the county use non-chloride compounds to melt snow and ice, but the information on page IV-163 differs from that	A non-chloride de-icing solution may be used. This decision will be made by MdTA when planning the highway maintenance.
950	IV.F.5.	Culverts impact stream flow.	The Lead Agencies have incorporated a large number of bridges in the roadway design and will design culverts to meet the hydrologic characteristics of the stream to minimize potential impacts to the stream.
951	IV.F.5.	Mitigation measures, particularly those during sediment control and surface water protection must be adhered to.	All mitigation measures will be strictly adhered to during construction and operation of the roadway. An environmental monitor will be onsite during construction to insure that all measures required or committed to are strictly adhered to.
952	IV.F.5.	There is already too much impervious surface in our county without the ICC.	Increases in impervious surfaces along the ICC Corridor are unavoidable with selection of a Build Alternative and must be balanced with the benefits of increased mobility. However, the Lead Agencies have included numerous avoidance and minimization measures to reduce the impacts of impervious surfaces including stormwater management that includes infiltration wherever feasible and exceeds minimum treatment standards set by MDE. Further information on avoidance and minimization of impervious surface impacts are discussed in Chapter IV, Section F.5.
953	IV.F.5.	Would like to see rain gardens introduced to reduce imperviousness	Rain gardens, also known as bioretention facilities, are being proposed for some sections of the roadway.
954	IV.F.5.	DEIS reveals that mitigation for aquatic system impacts may not be adequate to protect resources.	The mitigation package has been updated and is presented in the FEIS Chapters IV and VII. It has been coordinated with and accepted by the federal and state regulatory agencies as well as M-NCPPC charged with meeting regulatory requirements for impact mitigation.
955	IV.F.5.	Corridor 1 will cause dumping into Northwest Branch tributaries and Anacostia River because of impervious nature of road surfaces.	The DEIS acknowledges that the ICC would impact the Northwest Branch watershed. However, SHA has included numerous avoidance and minimization measures to reduce the potential impacts water quality in all the study area watersheds. These measures, including innovative stormwater management, extensive bridging, environmental monitors during construction and others, will help to protect water quality and mitigation will help offset unavoidable impacts. In addition, environmental stewardship projects have been included to reduce existing water quality impairment from past development.
956	IV.F.5.	How does SHA plan to comply with the impervious surface limits of the Upper Paint Branch Special Protection Area and Environmental Overlay Zone?	The Lead Agencies are working with M-NCPPC to determine how impervious surface limits in Montgomery County SPAs can be best addressed. As stated in the EIS, the Lead Agencies are committed to comply with the County's SPA requirements for stormwater management, and has incorporated a wide array of additional protections to be used in the SPAs.
957	IV.F.5.	Can you quantify the additional potential inputs of heavy metals and how they could violate mandated thresholds and lead to adverse impacts?	Modeling of select pollutant loads has been performed and is included in the FEIS. While modeled pollutant loads of metals from the corridor are shown to increase with a Build Alternative in most watersheds, the increases are in estimated pounds per year of runoff. Presently there are no non-point source surface water thresholds for metals in the study area. There are state surface water criteria for instream levels of metals, however, the model cannot predict the specific instream levels that could result at any given moment from estimated annual runoff loads.
958	IV.F.5.	The DEIS states that a channel disturbance is relatively small. What is the size of the impact?	The reference comes from a portion of the surface waters impacts section that discusses the impacts of culverts on stream channels. The full statement on p. IV-70 refers to the direct loss of habitat from the culvert being relatively small in comparison to the habitat available in the rest of the stream. In the DEIS, this is a statement about culverts in general, and in the paragraph directly above the referenced statement the reader is referred to Table IV-53 for the actual quantified impact from culverts.

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1076	IV.F.6.	Brown trout were not originally here - they were brought into this area.	While it is true that brown trout are not native to North America, they have been an important fishery resource in Maryland for many years. The brown trout in Paint Branch represent the last naturally reproducing population in the area and are an indicator of the relatively high water quality of the Upper Paint Branch watershed. For these reasons they are of local significance.
1077	IV.F.6.	Fish with lesions have been being caught in the Montgomery County watersheds - ICC will make this worse	The Lead Agencies are aware of the importance of aquatic biota and although complete avoidance of impacts is not possible with the selection of a Build Alternative, a wide array of avoidance and minimization measures have been included in designs to reduce the potential impacts of the roadway on these resources.
1078	IV.F.6.	The SHA has a poor record regarding compliance with either the letter or the spirit of the Upper Paint Branch Special Protection Area, as well as effectiveness in environmental protection throughout the area.	SHA is not required to follow the Upper Paint Branch Special Protection Area regulations because they are local regulations. However, extensive efforts have been made to provide roadway design features, avoidance and minimization measures and innovative stormwater management techniques to protect the Use III water quality of the Paint Branch. Impacts to many of the unique and sensitive areas are unavoidable due to the geographic size of many of the areas. Avoidance and minimization efforts of key resources in these areas is ongoing. Mitigation efforts include ongoing coordination with both counties and M-NCPPC on their current protection efforts.
1079	IV.F.6.	How will an ICC project increase the likelihood that fish will reestablish historical ranges in light of the massive ecological impacts to the Anacostia watershed from Corridor 1 described in the DEIS?	In making any decision, the state must balance a wide range of conflicting priorities. While all impacts from the ICC in the Anacostia watershed cannot be avoided, the ICC's commitment to environmentally sensitive design, environmental stewardship and strict adherence to all applicable regulations, including exceedance of some regulatory requirements is in keeping with many of the goals of the agreement and addresses the need to protect and restore resources while meeting transportation commitments. In addition, fish blockage removal projects included in the mitigation for the ICC will allow for additional upstream migration in areas currently inaccessible to anadromous fish.
1080	IV.F.6.	ICC will deal a crushing blow to the IBI (Index of Biological Integrity) of many of its receiving streams. p 6	Some degree of impact to aquatic biota within the study area is unavoidable if a Build Alternative is selected. The Lead Agencies have worked closely with regulatory agencies and resource managers to identify sensitive aquatic resources and determine potential minimization and restoration techniques. The focus has been to minimize impacts to aquatic biota not just during construction but also as part of the future operation of the highway. Efforts to avoid and minimize direct impacts to stream channels have included alignment shifts, replacement of culverts with bridges where practicable, and reductions in overall roadway section width at stream crossings where safety considerations allow. Other focus areas to minimize or improve upon the existing aquatic biota including identifying fish passage opportunities, placing natural stream substrate within culverts, redundant stormwater management, stream restoration along the ICC corridor, expanded bridge lengths, BMP's for erosion control and mitigation and Environmental Stewardship efforts. In addition, SHA is committed to meeting the state water quality criteria associated with the Stream Use designations throughout the project limits. Detailed descriptions of these measures are provided in the FEIS, Chapter IV.F.6.
1081	IV.F.6.a.	The ICC will impact the benthic varieties in the water along with fish, amphibians, etc.	Chapter IV, Section F.6.a of the DEIS acknowledges that some impacts to these resources are unavoidable, however, extensive avoidance and minimization measures have been employed to minimize these impacts. In addition, mitigation and environmental stewardship practices will help to further offset the overall impact of the project.
1082	IV.F.6.a.	Please clarify in the text that increased imperviousness, in particular in those subwatersheds that may currently exceed 10% imperviousness but which do not exceed 15% imperviousness, would be likely pushed over this critical threshold if the ICC is built.	Clarification on the impervious thresholds has been added to Chapter IV, Section F.6.a of the FEIS, as the comment appears to misconstrue language in the DEIS on imperviousness. A significant reduction in aquatic communities has been documented around the 10-15% impervious level. Wide variability of impairment occurs with conditions rarely reaching the "good" range above this percentage until around the 20-25% level, when another consistent drop in aquatic biota is generally noted. To our knowledge, 15% is not a set threshold of degradation as the comment seems to suggest.
1083	IV.F.7.	"End-on" construction method: This is the name that has been given to a method to construct highway bridges over streams, parks and wetlands. This method requires that the builder avoid or minimize the use of lands below the structure for operations, and instead use the new decks of the bridge under construction for equipment and access as the structure is extended across the feature being bridged. The proposed method has no merit, and is not a benefit to the proposal.	The FEIS contains the estimate of temporary and permanent impacts (e.g., stream, wetland) associated with each major stream crossing (Section IV-F7). The contract documents will require adherence to these estimates, with penalties for exceeding them and incentives for reducing them. The method of construction (e.g., "end-on") is not specified, simply the required result.
1084	IV.F.7.	Where are the stormwater management ponds located that have caused an increase of impacts since the previous study. Changes in impacts from right-of-way expansion should be clearly indicated.	The locations of storm water management ponds are shown in Volume 2 of the DEIS, Appendix A. These have been refined in the FEIS and will be further refined during the final design phase. As the current storm water management design is more detailed than the 1997 DEIS, a comparison of the right of way impacts is not feasible.
1085	IV.F.7.	"On Option A, the northernmost crossing is accomplished on a bridge that has been lengthened to avoid over 220 feet of stream channel impacts to tributary stream, reduce wetland impact, and span the two-year floodplain on Northwest Branch" (IV-199). The reduction in wetland impacts due to this bridge lengthening should be quantified and included in this description.	The noted impact reduction has been accounted for in the overall impact calculations, which can be reviewed in Chapter IV, Section F.5.
1086	IV.F.7.	The DEIS should include the quantified amount of reduced impacts to the wetlands in this description so the public and decision-makers can determine whether the impacts have been adequately minimized.	Aquatic resource avoidance and minimization efforts are discussed in Appendix M.
1087	IV.F.7.	Avoidance and Minimization of Impacts Techniques Summary- While the development of an approved Erosion and Sediment Control Plan is described in this document, sediment spills and accidents do happen in construction sites everyday. We strongly recommend that an 'emergency response plan' for sediment spills be prepared by the SHA and in place before construction begins. This plan should detail who to contact when a spill occurs, how to sequester the spill, and what procedures to follow to determine when and how to remove the sediments from floodplains, wetlands and streams.	SHA / MdTA is fully prepared to exceed MDE requirements for erosion and sediment control. In addition to routine plan approval and inspection, SHA / MdTA is taking extraordinary steps to minimize disturbance, and has committed to implementing redundant ESC measures in Special Protection Areas and supplying full time environmental monitors to perform another level of quality control, beyond MDE inspectors and SHA inspectors. SHA / MdTA is well aware of the environmental damage and erosion of public trust that would likely occur if a sediment spill were to happen during construction of an ICC Build Alternative. We are presently evaluating the best way to deal with an accidental sediment spill, and the outcome of the evaluation will be a spill response plan.
1088	IV.F.7.	"The use of a bridge also reduces the need for fill in the adjacent wetland." (IV-198). The claimed reduction in fill should be quantified.	Impact reductions as part of the avoidance and minimization studies have not all been quantified in the DEIS because they were a part of the ICC design process from early stages. A summary of avoidance and minimization measures can be reviewed in Appendices M and N in the FEIS.
1089	IV.F.7.	The DEIS text makes an unbalanced and potentially biased presentation of data regarding RTEs in the vicinity of I-95 on Page II-99.	The comment refers to page II-99 of the DEIS with respect to the quality of wetlands on lands formerly mined within the Indian Creek watershed. By reference to state-listed species, we assume that the commenter is questioning the discussion of the relatively lower quality of the wetlands formed incidental to mining operations when the section of the DEIS that discusses Rare, Threatened, and Endangered Species states the presence of a state-listed endangered aster species within this area. We agree that this information should be included in the discussion of wetland functions for the wetlands created incidental to mining east of I-95, thus increasing their value. This information has been added in the FEIS, section IV.F.7.

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1224	IV.F.10.a.	We are informed in the DEIS that the Bonifant Floodplain ES Area contains State rare/watch list species. How will the crossing of this floodplain impact these species?	Impacts to these species could come from direct impacts to habitat or from changes in hydrology, runoff, or sedimentation rates.
1225	IV.F.10.a.	Bog Turtle - NETR - no discussion of whether they confirmed bog turtle (no mention of the video taken during previous DEIS of a probable bog turtle) (p. 120)	Four separate Phase II bog turtle surveys were conducted during the required survey period and no bog turtles were found within the study area.
1226	IV.F.10.c.	What Maryland Nongame and Endangered Species Act regulations apply to this project, if any? What is the proposed avoidance of harm options to the State Endangered and State Threatened plants in the ICC right-of way? Does the Maryland Nongame and Endangered Species Act require any application of avoidance of harm to the State Endangered and State Threatened plants in the ICC right of way?	Regulations pertaining to this project and RTE species are discussed in the Chapter 2 RTE section of the FEIS. Avoidance and minimization measure for RTE species are discussed in Chapter 4 of the FEIS.
1227	IV.F.10.c.	How and where will SHA mitigate for the loss of so many RTE/Watchlist species? Where and how can the SHA find habitat of equal or greater value?	SHA has worked to minimize impacts to as many RTE species as possible. Any mitigation efforts for State species that are affected have been coordinated with DNR and are presented in Section IV.F.10.c of the FEIS.
1228	IV.F.11.	Rock Creek Option C would still wreck the headwaters of Mill Creek, fragment interior forest, require blasting of steep slopes next to Rock Creek, have tremendous community impacts and would still go through the proposed Needwood North Protection Area recommended by the Maryland Department of Natural Resources (upstream of Redland Road and at Mid County Highway Rock Creek crossing). The DEIS did not mention this protection area recommendation, originally described in 1993 by the DNR (under contract to M-NCPPC). Many more rare species are known in this area now, and its importance to Montgomery's remaining biodiversity is extremely critical. It is the most topographically intricate part of the entire Rock Creek watershed (from Laytonsville to Georgetown), and perhaps the most beautiful, too.	In accordance with the National Environmental Policy Act (NEPA), the Lead Agencies have conducted all possible planning to minimize harm to environmental resources. Coordination has been ongoing with the environmental resource agencies to avoid or minimize potential impacts.
1229	IV.F.11.	The ICC's Corridor 2 would impact McKnew Bog, which is a unique and sensitive area.	Impact mitigation for McKnew Bog is discussed in Chapter IV, Section F.11.
1230	IV.F.11.	Control and treat both road and bridge deck runoff in SPAs. Why only in SPAs? Why not use BAT at every stage of the proposed project?	BAT is being used on all aspects of the project. It may not be physically feasible to treat bridge deck runoff if the bridge is in a low point and the area beneath is a protected resource such as wetland, parkland or forest. In some cases it may make more sense to treat other impervious in the watershed that was constructed without stormwater controls rather than destroy additional resources to physically treat runoff in the location where it is generated.
1231	IV.F.11.	Why are the redundance controls only used in the SPAs and Rocky Gorge? Why not use them throughout the proposed project given the massive amount of earth that would have to be moved to build a proposed ICC?	Much of SHA's sediment control program will be employed corridor wide, however Special Protection Areas and the Patuxent Watershed will receive additional protection.
1232	IV.F.11.a.	What is the cost of lowering the total percentage of impervious surface in the Upper Paint Branch Special Protection Area to 8%?	Lowering the percentage impervious surface in the Upper Paint Branch Special Protection Area to 8% is not required compliance with Federal and State regulations. Therefore, this type of analysis and cost estimate was not developed.
1233	IV.F.11.a.	There are special protection areas that would be destroyed by the ICC.	The DEIS acknowledges that the ICC would impact SPAs. However, extensive avoidance and minimization measures have been incorporated in the SPAs to reduce these impacts, including innovative stormwater management, rerouting of stormwater, extended bridges, compliance with SPA stormwater review procedures, redundant sediment and erosion control, and environmental monitors. In addition, numerous mitigation projects have been targeted for the SPAs to offset project impacts, and Environmental Stewardship projects will also be implemented in the SPAs to help correct existing problems.
1234	IV.F.11.c.	Concerned about impacts to a special protection area that the county has worked hard on if Corridor 2 is chosen	Impacts to special protection areas are unavoidable due to the geographic size of the area. Minimization efforts have occurred for the key resources in each area. Mitigation efforts have included ongoing coordination with both counties and M-NCPPC on their current protection efforts.
Environmental Consequences, Noise Impacts (43*)			
1235	IV.G.	In addition to NEPA, the Federal-Aid Highway Act requires that FHWA consider the "possible adverse effects" of "air pollution" as part of any federal decision to approve a highway project. 23 USC Section 109 (h) requires a three-step evaluation of air pollution impacts and mitigation measures to ensure that "final decisions on the project are made in the best overall public interest." The first step is to determine the possible adverse economic, social and environmental effects relating to any proposed project. The second step is to determine the costs of eliminating or minimizing such adverse effects and air pollution. The third step is to consider the costs of eliminating or minimizing such adverse effects together with the need for fast, safe, and efficient transportation to make a final decision on the project in the best overall public interest. FHWA's implementing regulation future requires that any measures necessary to mitigate these adverse effects be incorporated into the project (23 CFR Section 771.105 (d).	FHWA has addressed its obligations under Section 109 (h) as part of the NEPA process, in accordance with existing FHWA guidance and practice. The NEPA analysis has considered air quality impacts, including an analysis of MSATs. This analysis has shown that MSAT emissions will decrease substantially under all Build alternatives as compared to existing conditions.
1236	IV.G.	Concern about noise effects on wildlife and natural areas	Current FHWA criteria and SHA Sound Barrier Policy consider noise analysis/abatement for parks where there is a noise sensitive use. Some research (Krause, 1993) suggests that "the inability of [wildlife] creatures to successfully communicate or otherwise employ their auditory senses is detrimental to the long-term survival of these displaced creatures and the overall biological integrity of the environment." However other research (Busnel, 1978) has shown that "determining the effect of noise on wildlife is complicated because responses vary between species and between individuals of a single population." The current analysis for the ICC considers the effects of noise on human activities and does not consider the effects on wildlife. As requested by FHWA, sound levels within these natural areas has been investigated.

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1578	IV.K.	The long-term assessment requires that potential land use changes in zoning in the entire watershed receive serious consideration. The DEIS used an area much smaller than the watershed and assumed a very little change in zoning. This could have caused a significant underestimation of the projected future growth, and thus impacts to reservoirs.	The SCEA boundary encompased portions of six different counties, Montgomery, Prince George's, Howard, Anne Arundel, Carroll and Frederick Counties it also included most of Washington DC. The SCEA boundary extends far beyond the limits of the direct impact study area. This boundary was also created in accordance with SHA's June 2000 SCEA guidelines, additionally it was agreed upon by federal, state and local Agencies at the Interagency Working Group in September 2004. The area of assessment for future growth projections was based on numerous factors in an effort to include all areas that might experience future growth or other secondary impacts resulting from the ICC. Although the Rocky Gorge watershed extends considerably outside of the SCEA boundary, and growth would certainly be expected in these areas, this growth is dependent on other factors, such as additional transportation and development projects within the region. Because the DEIS is intended to focus on the ICC and its potential consequences, land use changes and other impacts unrelated to the ICC were not assessed. Additionally, the Lead Agencies have conducted a pollutant load modeling study to determine how pollutant loads change with either build alternative and to determine the effects of an ICC Corridor 2 on the Rocky Gorge Watershed based on secondary development within the watershed. Please refer to Sections IV.F.5.c and IV.K.8.b. of the FEIS and the ICC Pollutant Load Study conducted in July 2005 for more details.
1579	IV.K.	The environmental impacts do not include impacts associated with attempted development.	Please refer to the Secondary and Cumulative Effects Analysis, Section IV.K of the FEIS. This section addresses impacts to resources based on 2030 household and employment projections from an Expert Land Use Panel which were transformed into development areas.
1580	IV.K.	Helped develop simple land use allocation model to use in panel evaluation - projected increase in 2030 jobs in households that could result from the ICC, these results had higher projected development than those given in DEIS. Upset that panel member's estimates were not included in DEIS.	Please refer to the SCEA Technical Memorandum. The results of the Expert Land Use Panel are included in the documentation (Tables 4, 5 and 6).
1581	IV.K.	A unique portion of Corridor 2 is outside PFA and that there are no spill or rainfall studies in the DEIS	Both corridors fall partially outside of the PFA. Corridor 1 is located within more PFA boundaries than Corridor 2. Since publication of the DEIS, the Lead Agencies have conducted more detailed water quality studies and reservoir studies and this wil be presented in Chapter IV of the FEIS.
1582	IV.K.	Plan development to use land more wisely and invest to reduce pollution	Land development patterns are planned by M-NCPPC and the counties. The Lead Agencies are committed to limiting pollution and a detailed discussion on air quality can be reviewed in Chapter IV.
1583	IV.K.	ICC SCEA shows 22 additional streams impacted that ICC summary does not reveal.	The ICC SCEA study area is much larger than the direct impact study area. Therefore additional streams would be impacted due to Secondary and Cumulative Effects. Please refer to Section IV.K of the FEIS for additional details.
1584	IV.K.	ICC study needs to analyze impacts of loss of up to 3,500 forest acres and 250 acres of wetland lost by induced sprawl caused by ICC.	According to the ICC Secondary and Cumulative Effects Analysis, secondary development could potentially affect 2,200 acres of forest and 160 acres of wetlands.
1585	IV.K.	Changes in Montgomery County development patterns should have been evaluated.	The Secondary and Cumulative Effects Analysis in Section IV.K. of the FEIS looks at past, present and reasonably foreseeable future impacts from development projects in addition to transportation projects which have occurred and are slated to occur. This assessment also determines how various resources have been affected based on these developments. This analysis also evaluates impacts from secondary development which were based on the estimates of an Expert Land Use Panel.
1586	IV.K.	The cumulative effects of the ICC on the Paint Branch, the Special Protection Area, Environmental Overlay Zone, the wild trout fishery, forest interior habitat, and parkland experience are not quantified, avoided, minimized, or mitigated in the DEIS. How is this significant shortcoming going to be corrected?	The SCEA Technical Memorandum includes discussions on the secondary and cumulative effects to the Paint Branch including impacts to the Brown trout population (SCEA TM A, 7, e). The impacts to SPA's are discussed including the amount of impervious that could be added as a result of secondary and cumulative effects. A discussion on the role of Environmental Overlay Zone is also included (SCEA TM A, 7, k). Forest interior habitat is discussed in detail with information on secondary and cumulative impacts to FIDS habitat as well as an assessment on the secondary and cumulative effects to Green Infrastructure within the SCEA boundary (SCEA TM A, 7, h). In additon, the FEIS SCEA describes impacts to parkland, Section IV.K.8.
1587	IV.K.	How are impacts to floodplains outside of the 400' corridor counted in the impact analysis?	The impact analysis includes only those floodplains directly impacted and within the 400 foot buffer. Chapter IV, section K. discusses secondary and cumulative effects on all resources not directly impacted by the ICC.
1588	IV.K.	Will a broader area be studied based on scientific criteria prior to finalizing the DEIS?	Areas studied for most resources include those within the ROW of the ICC. The Secondary and Cumulative Effects Analysis studies a broader range of impacts, and can be reviewed in Chapter IV, Section K.
1589	IV.K.	Why does the DEIS not discuss the approximately 5,000 acres of unexpected development, the 3,400 acres of forest land lost, the more than 200 acres of wetlands lost, and the many miles of stream bank erosion as indirect and secondary impacts of a proposed ICC?	As described In the Secondary and Cumulative Analysis section, forest loss beyond the study area is anticipated. Ongoing efforts by Montgomery and Prince George 's County as well as DNR are, however, anticipated to minimize forest loss associated with secondary and cumulative development. The State of Maryland and Montgomery and Prince George 's Counties have forest preservation laws in place, requiring reforestation and aforestation for new development. Impacts to forestland could also be reduced by other Federal, State and local land conservation programs along with forestland preservation by public and private organizations. It is anticipated that public and private forest conservation efforts would be coordinated with the goals of the DNR's Green Infrastructure Program.
1590	IV.K.	IV-377- "47 percent of the County is in parkland or agricultural reserve." This is not correct. The 47 percent figure includes green space in homeowners associations and along roads and streets. What is the quality of the 47 percent? How much of it is biodiverse habitat? The M-NCPPC Forever Green Report is misleading. How can you compare the loss of high quality forest to street trees?	The statement has been changed to read "47 percent of the County has been designated "Forever Green" which includes parkland reserve, agricultural reserve, homeowner association greenspace, forested roadside buffers and other conservation areas".
1591	IV.K.	IV-382- Cumulative effects statement: How will SHA avoid, minimize and/or mitigate the impacts from such massive cumulative effects? Why does this DEIS not analyze the cumulative impacts that it identifies?	Please refer to the Secondary and Cumulative Effects Analysis, Section IV.K. Measures that would be appropriate to offset most future developmental impacts in the ICC study area will be beyond the control and funding authority of SHA, MdTA or FHWA. The pace and location of future development along an ICC will be influenced and controlled by state and county land development policies and plans.
1592	IV.K.	Cumulative effects fall disproportionately on low-income and minority communities. How will the SHA avoid, minimize and/or mitigate these environmental justice impacts?	This study uncovered no data to support the comment. The pace and location of future development will be influenced and controlled by state and county land development policies and plans. Please refer to Section IV.B.2 for more information.

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Comment Number	FEIS Section	Comment	Response
1653	V.	How can a reader arrive at an informed decision regarding impacts to 4(f) resources when the Summary text does not provide a true and balanced presentation of information necessary to make an informed decision regarding whether or not Section 4(f) impacts have actually changed for Corridor 1 (MPA) & Corridor 2 (Northern Alternative)?	The Summary chapter is not intended to be the chapter where the reader forms a decision because it is a brief summary of the entire study and study history. Chapter V of the DEIS gives a more thorough review of the Section 4(f) impacts. In the FEIS, the summary will be developed to accurately reflect the major analysis points of the Final Section 4(f) Evaluation. However, for the complete study, readers should consult Chapter V, Final Section 4(f) Evaluation.
1654	V.	How can a reader understand the values of parkland and historic sites to each other if the DEIS does not make an effort to address the comparative values of these resources?	The values of the parkland and historic sites are provided in the description of each resource.
1655	V.	There is a Section 4(f) use of Little Paint Branch Stream Valley Park.	The DEIS mapping included an error, which indicated that a small portion of Little Paint Branch Stream Valley Park would be used for the ICC. That error has now been corrected and both Plate #32 and section V.C.1.b indicate that there would be no Section 4(f) use of Little Paint Branch Stream Valley Park.
1656	V.	Under Northwest Branch Option A, an impact of 27.4 acres would be required (see Figure V-29). However, Figure V-29 only gives acreage figures of 4.9 and 20.2 resulting in a total of 25.1 acres, not 27.4 acres.	These numbers were in conflict in the DEIS due to a typographical error. Since the DEIS, all Section 4(f) use acreages have been updated in the Final Section 4(f) Evaluation to reflect refined engineering. The numbers shown currently are accurate.
1657	V.	Regarding the Patuxent River Watershed Conservation Park and the T. Howard Duckett Reservoir Property, the text states that the "total Section 4(f) use of these resources" is "(15.8 acres)." This figure is not the same figure that results from adding up data in Table V-4 on page V-70.	The total Section 4(f) use of these two resources presented in the DEIS was intended to be 15.8 acres. Any instances where figures were presented differently were due to typographical errors. Revised Section 4(f) use acreages have been presented in the Final Section 4(f) Evaluation due to refinements in engineering since the Draft. Every effort has been taken to assure that all numbers presented in the Final are accurate and consistent.
1658	V.	Why is there no discussion of the Special Protection Area of Upper Rock Creek?	Special Protection Areas are a water quality issue that is discussed in Chapter IV, Environmental Consequences. The designation of the Upper Paint Branch Watershed as a Special Protection Area does not influence the outcome of the Section 4(f) Evaluation and is, thus, not discussed in this chapter.
1659	V.	How does your failure to draw conclusions that analyzed alternatives or shifts are not prude (sic) or feasible impact the quality and validity of this document? By failing to provide the public with a complete document with analysis and evaluation of impacts and how they will be avoided, minimized, and/or mitigated, you have deprived the public of its right to meaningful and substantive participation in the largest construction project in Maryland's history.	The Draft Section 4(f) Evaluation was not intended to conclude that all the analyzed alternatives are not prudent or feasible. The Draft was intended to present the most current information so that the jurisdictional officials as well as the regulatory agencies and the public could provide input. This input was then used to refine the analysis and is presented in the Final Section 4(f) Evaluation. The public can submit comments in response to the FEIS. A final decision will not occur until all comments have been considered.
1660	V.	If 4(f) reviewers take into account the study's inappropriate lack of alternatives, and the likely existence of other promising alternatives to addressing travel (such as those provided by Environmental Defense et al.), the Draft EIS is virtually assured of failing Section 4(f) review.	The Section 4(f) Evaluation was prepared in accordance with 23 CFR 771.135 and 49 U.S.C. 303(c). The Draft Section 4(f) Evaluation was found to meet applicable standards for publication by FHWA and approved for circulation. Please also see comment I.A. of the General Public Comments and Responses section of appendix R. Section 4(f) Evaluations do not identify a least harm alternative in the draft document because those conclusions are dependent upon extensive coordination with the jurisdictional official of the Section 4(f) resources to minimize harm to the resources as well as develop appropriate mitigation. This does not typically occur prior to the circulation of the Draft Section 4(f) Evaluation. The Final Section 4(f) Evaluation includes these conclusions.
1661	V.	The proposed action alternatives (construction of Corridor 1 or construction of Corridor 2) do not include complete plans to minimize harm to 4(f) resources that would or might be impacted. Therefore the Draft EIS is not ready for public or agency review.	The Draft Section 4(f) Evaluation was not intended to conclude that all possible planning has been included to minimize harm to 4(f) resources. The Draft was intended to present the most current information so that the jurisdictional officials as well as the regulatory agencies and the public could provide input. This input was then used to refine engineering and finalize mitigation, thus assuring that all possible planning was included to minimize harm. Section 4(f) Evaluations do not identify a least harm alternative in the draft document because those conclusions are dependent upon extensive coordination with the jurisdictional official of the Section 4(f) resources to minimize harm to the resources as well as develop appropriate mitigation. This does not typically occur prior to the circulation of the Draft Section 4(f) Evaluation. The Final Section 4(f) Evaluation includes these conclusions.
1662	V.	The description of "Stream Valley Parks" in the DEIS is misleading because it omits any reference to the purpose of acquiring stream valley parks. (V-4; TableV-1). According to several documents, the primary purpose is conservation due to the significant contribution of Stream Valley Parks in assuring watershed protection.	The term "Stream Valley Parks" is defined in the Section 4(f) Evaluation on Table V-1. This definition was provided by the agency with jurisdiction over the parks, M-NCPPC.
1663	V.	In the context of discussing land designated for transportation purposes and the applicability of Section 4(f) to those lands, the DEIS should provide the dates when the relevant Section 4(f) resources were determined to be "significant" in accordance with federal regulations, 23 C.F.R. 77 1.135(c),(d), and the circumstances surrounding such determinations.	The purpose of coordinating with the jurisdictional officials to determine if Section 4(f) resources are significant is to be certain that the requirements of Section 4(f) would apply to those properties. The project team coordinated with the jurisdictional officials of the resources at the onset of the current study to identify and describe the resources that would potentially incur a Section 4(f) use as a result of this project. At that time the jurisdictional officials provided their formal determination that all of the resources that would potentially be affected were considered significant. The actual date of this determination is not relevant.
1664	V.	The DEIS merely lists the locations and "dates of various acquisitions by M-NCPPC", (V-5; Figure V-2), failing to explain how the timing of an acquisition establishes the intent of the M-NCPPC that certain parcels of property were initially acquired for parkland and others for transportation purposes or that there was an intent that an east-west highway would divide the parks. The DEIS should include additional information surrounding these acquisitions so that the public and the decision-makers have sufficient information to evaluate such assertions and the DEIS's conclusions regarding the limited applicability of Section 4(f).	The deeds researched in order to determine the dates of acquisition of the properties identified as Designated Transportation Areas contain language that specifies that M-NCPPC would be purchasing each property for transportation use. These deeds are contained within the project's Technical Support Data and are reflected within the Section 4(f) Evaluation. The Technical Support Data files are located at the Maryland State Highway Administration headquarters at 707 N. Calvert Street, Baltimore, MD 21202.
1665	V.	Since the ICC was planned before the enactment of most Federal and State environmental laws and prior to the incorporation of environmental criteria in the planning process, SHA should conduct a thorough Section 4(f) analysis these lands.	Although a few of the Designated Transportation Areas were established prior to 1969, all of these areas are being evaluated for impacts from this project in accordance with the cited environmental laws and regulations. It is important to note that the purpose of acquiring these lands was not to preserve the natural features of the land, but rather to protect it from development so that it could eventually be utilized for its intended purpose - a transportation facility. These areas are not considered Section 4(f) resources because they were never designated as parkland by M-NCPPC and they were planned concurrently with the surrounding parks.
1666	V.	The DEIS should quantify the number of acres it concludes are exempt from a Section 4(f) analysis but which will nevertheless be directly used and/or indirectly impacted by the proposed ICC. This information is needed to provide the public with sufficient information to assess the true environmental impacts of this project.	The environmental quality impacts within the Designated Transportation Areas are discussed in depth within Chapter IV, Environmental Consequences, of the DEIS. The assessment of impacts in Chapter IV provides the full extent of the environmental impacts. The quantity of non-Section 4(f) acres directly impacted by the ICC is not relevant to the Section 4(f) Evaluation and is, therefore, not included in the analysis.

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Comment Number	FEIS Section	Comment	Response
1683	V.	The DEIS should provide the criteria for and results of the preliminary investigations conducted to identify candidate parkland replacement sites. (V-56). The DEIS should include all candidate parkland replacement sites identified, including those from the M-NCPPC Master Plan for Park Acquisition Sites and the ACOE. (V-56).	The criteria for the evaluation of candidate parkland replacement sites are listed in the DEIS on page V-56 - V-57. The results of the preliminary investigations are included in the conceptual mitigation discussions in the FEIS.
1684	V.	The Master Plan Alternative requires a wider strip of land than the 300ft ROW through Good Hope watershed. This land is park and subject to 4(f).	A Designated Transportation Area (DTA) is identified within Upper Paint Branch Stream Valley Park. This DTA is shown on Figure V-2 of the FEIS. The footprint of the Corridor 1 Alternative extends beyond the limits of the DTA in certain areas as shown on Figure V-31of the FEIS. The Final Section 4(f) Evaluation includes all acreage of impact outside of the DTA as parkland and considers these to be Section 4(f) uses.
1685	V.	Additional measure to reduce footprint impacts to high quality and valued natural resources (for example, meaning the physical loss of native plant habitat by clearing and grading) in existing or proposed parkland should be incorporated in the report.	The DEIS/Draft Section 4(f) Evaluation presented footprints which have been significantly reduced to decrease impacts. Since the DEIS, SWM ponds have been removed from the footprint and placed underground, further reducing impacts within the parks.
1686	V.	Given the impacts upon our parklands, it is incumbent upon SHA to answer these vital questions about our park resources, preferably in a completely redrafted DEIS.	The comments related to parklands are addressed and appear in the FEIS/Final Section 4(f) Evaluation.
1687	V.	CONVERT ALL PUBLICLY OWNED ICC RIGHT-OF-WAY INTO A CONSERVATION PARK. These inter-connecting forested corridors are crucial for the biological integrity of Rock Creek and the Anacostia River. Part of the original Outer Beltway route is now Matthew Henson State Park, so there is clear precedent for this.	M-NCPPC planned for the eventual construction of a transportation facility along this corridor prior to acquiring the land within the Designated Transportation Areas. To date, it is still the M-NCPPC's intention that the ICC be constructed in these locations. The project team acknowledges the importance of the forested parklands and has incorporated extensive measures to avoid and minimize impacts where possible. In addition, extensive mitigation is being provided to further reduce the ultimate impact to these resources.
1688	V.	The single biggest flaw in the intent of the Hybrid to achieve "maximum park protection" is the complete dismissal of any value to the North Branch of Rock Creek.	All alternatives under consideration would have identical impacts to the North Branch Stream Valley Park and these impacts will be mitigated to the fullest extent possible.
1689	V.	SHA's commitment to the environment is suspect. Even if SHA is committed to the environment, the contractors and subcontractors may not be. Also, the environmental safeguards mentioned could be dropped to save cost.	Any large transportation decision must try to balance the numerous commitments and priorities of the Lead Agencies. As presented in the EIS, the ICC includes unprecedented measures to avoid and minimize the negative natural resource impacts from construction and operation of the roadway. These commitments, as well as commitments to improve existing watershed degradation and human environment elements through environmental stewardship will reduce the overall impacts of the project, while providing for improved mobility in the region. These commitments will not be dropped from the project and Environmental Monitors will be employed to assure their adherence during and after construction.
1690	V.	It is again time to stop the ICC. This $3 billion, 6 lane freeway would cut through 6 stream valley parks, devastating the environment and many communities on its ruinous, 18 mile path from I-270 to I-95.	The ICC, if constructed along the Preferred Alternative, would cross six stream valley parks and communities while following an alignment nearly identical to that which has been identified in local master plans for many years. Throughout much of this alignment, land use has been planned around the location of the proposed ICC, because it has been known that the roadway could eventually be constructed there. All parkland used would be replaced at a ratio of greater than 2:1. In addition, many additional measures, which are described in the FEIS, have been included in the project to avoid, minimize and mitigate for the adverse impacts to the natural and human environments. Furthermore, the project includes Environmental Stewardship enhancements aimed at providing improvements throughout the study area that help address the impacts of past development.
1691	V.	The 1997 federal agency analysis also conveniently omitted designated planned parkland along the MM 198 and Northern routes corresponding to that cited on the MPA; neglected to identify even recorded parkland along MD 198; failed to accord due respect to Special Protection Area resources affected by the northern alignments which have high significance in their own right; mischaracterized the intended function of MD 28-198 in the County and State transportation plan; and applied a separate mitigation/avoidance standard to the Norbeck Connector project in order to accommodate a favored ICC option.	The FEIS/ Final Section 4(f) Evaluation appropriately identifies all publicly-owned parklands in accordance with 23 CFR 771.135. Planned parkland is not protected under Section 4(f) because, in this case, these lands are not publicly owned. However in Section V.N.3.a. of the FEIS, a discussion of the impacts of Corridors 1 and 2 on planned parklands has been added. All Special Protection Areas in the study area are identified in the FEIS and appropriate measures have been included minimize impacts to the resources within these areas. The MM198 and Northern Alternatives were handled in the 1997 DEIS in the same manner as the Master Plan Alternative as far as mitigation and avoidance measures, including the portions of them along the path of Norbeck Road Extended. Relative to Norbeck Road Extended itself, it was permitted by MDE and COE as a separate project, independent of the ICC, and was discussed in the ICC DEIS as a planned independent project.
1692	V.	The Olney Master Plan required the construction of the Georgia Avenue paths when the adjacent subdivisions were developed. The developer of the Brooke Manor subdivision was required to refurbish the old road right-of-way and construct a shared-use path. The developer of the Preserve at Small's Nursery subdivision was required to provide the one-way roadway with a separate striped 2-way path. The developer of the Preserves also owned an additional plot of land where the ICC crosses Georgia Avenue between the Preserves and Brook Manor on which the developer planned to build houses. Because the developer was not performing any work on this additional plot at the time, the developer was allowed to leave the path to be constructed the State when the State acquired the land for the ICC, which it subsequently acquired. Meanwhile, this section of old roadway became the de facto bike path. (Source: Gail Tait-Nouri, Bikeways Coordinator, Planning Section, Division of Capital Development, Montgomery County, Department of Public Works and Transportation, Executive Office Building, 101 Monroe Street, 9th Floor, Rockville, MD 20850, (240) 777-7243, Gail.Nouri@MontgomeryCountyMD.gov)	Several environmental stewardship projects are proposed including the development of trails and bike paths in the study area. Detailed description of these features is discussed in Chapter V.

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Comment Number	FEIS Section	Comment	Response
1723	V.E.4.c.	Building any ICC route through the North Branch would require removal of a large bedrock outcrop (Station 321 on map MPA-6), which could only be accomplished with Alfred Nobel's famous invention. Even an "elevated ICC" would be a linear clear cut through the forest, and would disrupt the hydrology of nearby wetlands that have endangered species. No serious park avoidance or even partial park avoidance options have been considered to avoid this beautiful forest.	The Final Section 4(f) Evaluation addresses the possibility of minimizing impacts to the park by shifting the alignment to the north and the south. Based on the obvious challenges that would be encountered if either of these strategies were implemented, the team concluded that these options would not be prudent minimization options. These challenges are described in the Final Section 4(f) Evaluation.
Final Section 4(f) Evaluation, Section 2: MD 97 to I-95 (19*)			
1724	V.F.1.a.	The DEIS mentions both "special protection area" and "biodiversity area" in the description of the Northwest Branch Stream Valley Park but fails to provide a description of either of these designations or citations to where the reader may look for additional information about what effect these designations have on the park. (V-13).	Page V-13 of the DEIS specifically refers the reader to Chapter II, Affected Environment, for more information on the special protection area and biodiversity area noted in the North Branch Stream Valley Park description. More information on impacts to these natural resource areas is discussed in Chapter IV, Environmental Consequences.
1725	V.F.1.a.	The Upper Paint Branch Stream Valley Park contains trails that predate the park designation. The reader is left with the impression that only man-made facilities are considered to be amenities in the DEIS and that use of the trails is illegal. The DEIS does provide numerous examples of recreational activities for Northwest Branch, so why are these activities not listed for Paint Branch Park? Will you update the text to include these recreational opportunities? If not, why not?	The description of Upper Paint Branch Stream Valley Park has been updated to include a description of the recreational opportunities available at this park. See Section V.F.1.a of the FEIS for this description.
1726	V.F.1.b.	V-99- resulting in a constructive use that must be evaluated under Section 4(f)... When will it be evaluated? It should have been evaluated in this DEIS. You are again depriving the public's right to meaningful and substantive participation by submitting an incomplete DEIS.	The Free Methodist Church Camp Meeting Ground was evaluated as part of the Section 4(f) Evaluation earlier in Chapter V of the DEIS. The use was described page V-45. Please also see comment XIV.B. in the General Public Comments and Responses section of Appendix R of the FEIS.
1727	V.F.2.	The DEIS concludes that "[considering the proximity to the floodplain and wetlands, this was determined to be an appropriate location for the traditional on-site SWM]." (V-40 - V-41). However, the DEIS fails to give any details supporting this conclusion. Additionally, the DEIS does not provide a compelling rationale for not considering mitigation to provide underground storm water treatment at this location.	Underground SWM is being considered to reduce parkland and other impacts but comes with high construction and maintenance costs. Changes to parkland impacts resulting from 4(f) minimization efforts are included in Section V-H of the FEIS.
1728	V.F.2.a.	Northwest Branch Stream Valley Park - Unit 5 - was designated with a straight highway corridor bisecting the park. This corridor is clearly not a Section 4(f) resource because it is not parkland. The purpose of the park is to protect the stream and associated aquatic resources. FHWA is considering whether the curved corridor is properly considered a use of Section 4(f) resources, since it causes less harm to the protected resources. Does causing less harm change the nature of the land?	FHWA has concluded that the parkland affected along Northwest Branch Option A would be subject to the requirements of Section 4(f). However, because there is general agreement among the Federal and State resource agencies (ACOE, USFWS, EPA, MD DNR, and MDE) as well as M-NCPPC that Northwest Branch Option A would minimize harm to the aquatic resources within the park, the difference in the acreage of parkland affected is distinguished in the least harm analysis.
1729	V.F.2.a.	The DEIS fails to provide the total number of Section 4(f) acres used by the Northwest Branch Option B without Interchange at Layhill Road. (V-38).	The number of acres is now included in the FEIS/Final Section 4(f) Evaluation within the text description of the Section 4(f) use by Northwest Branch Option B. This total was provided in Table V-3 of the DEIS/Draft Section 4(f) Evaluation.
1730	V.F.2.a.	The DEIS fails to cite any support for the assertion that "[although the land beneath the bridge is considered Section 4(f) use, the use of a bridge in this area would help to minimize impacts to the park." (V-39-V-41). The DEIS does not explain whether the land under the bridge is included in its acreage projects of Section 4(f) use.	The land under bridges within Section 4(f) resources was counted as Section 4(f) use in the acreage totals.
1731	V.F.2.a.	The DEIS fails to provide the total number of Section 4(f) acres used by the Northwest Branch Option A without Layhill Road Interchange for the Northwest Branch Stream Valley Park - Unit 5. The DEIS should include the total acreage of the DTA so that the public can adequately evaluate the alternatives.	The number of acres is now included in the FEIS/Final Section 4(f) Evaluation within the text description of the Section 4(f) use by Northwest Branch Option A. This total was provided in Table V-3 of the DEIS/Draft Section 4(f) Evaluation. The Final Section 4(f) Evaluation will include the total acreage of the Designated Transportation Areas in this location.
1732	V.F.2.a.	The specific locations of land required from the Upper Paint Branch SVP in the vicinity of Paint Branch/Gum Springs and to the west, south of Cavendish Drive, are not stated.	Specific locations of Section 4(f) uses within Upper Paint Branch Stream Valley Park were depicted in the DEIS on Figure V-31. They are described in the Final Section 4(f) Evaluation in Section V.F.2.a and are depicted on Figure V-31 of the FEIS.
1733	V.F.2.a.	Page V-48: The first sentence states that both Corridors would use property from the Northwest Branch Recreational Park. While true, the statement does not convey the important differences in impact from each corridor. We request that this data be presented at this point so that readers can understand that Corridor 2 has just one fifth of an acre of impact compared with a range of 13.9 to 23.7 acres of impact for Corridor 1.	This statement has been removed from the document. Corridor 2 has been refined such that there is no longer a Section 4(f) use of Northwest Branch Recreational Park under this alternative. The impacts to Northwest Branch Recreational Park from Corridor 1 are described in Section V.F.2.a of the FEIS.
1734	V.F.3.	Although DEIS lists retaining walls as a possible measure to reduce impacts, it is not listed as a specific measure that is to be used within any part of Paint Branch (not listed on pg. V-46 to 47 of DEIS) nor is it shown as proposed in the plans-except for short section at New Hampshire Ave. for interchange ramps.	Additional retaining walls are shown in the FEIS (See Appendix A) as a result of further study. It is likely that more will be developed as the project moves through the design phase.
1735	V.F.3.	We conclude that all possible planning actions to minimize harm to the Paint Branch aquatic resource have not been taken.	Extensive measures have been taken to minimize harm to Upper Paint Branch Stream Valley Park and the resources within that park. These are described in detail in Chapter IV of the FEIS. Additional measures to minimize the Section 4(f) use of this park are described in the Final Section 4(f) Evaluation.
1736	V.F.4.	DEIS page V-50 - Another 8.1 acres of high value parkland could be saved by using BAT for SWM. That now comes to a total of 19.9 acres of high value parkland that could be saved if you used BAT instead of "traditional ponds." What is the ecological and economic value to society and the Chesapeake Bay of preserving 19.9 acres of high value parkland instead of flooding it with traditional storm water ponds that require extensive maintenance, result in thermal pollution, and are attractive nuisances that leave the State with liability? And, what about mosquitoes and West Nile Virus?	The Lead Agencies are taking extraordinary steps to minimize parkland impacts, including constructing storm water management facilities underground within the roadway footprint. Considerable reduction in parkland impact has been made in response to comments on the DEIS, and is reflected in Section V of the FEIS.

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Comment Number	FEIS Section	Comment	Response
Final Section 4(f) Evaluation, Correspondence and Coordination (2*)			
1771	V.P.1.	At least two parklands originally purchased with U.S. Housing and Urban Development (HUD) Open Space Land Program Funds will be impacted by the proposed ICC. The parks at issue are the Rock Creek Regional Park (V-1 1) and the Layhill Local Park (V-24). The DEIS should provide citation to the 1971 M-NCPPC record and the 1965 M-NCPPC record, respectively, that approved alignment of the ICC Master Plan Corridor through the land acquired with funds from the HUD Open Space Land Program. Additionally, the DEIS fails to discuss the mandatory special approval of the Secretary of the Interior required to be obtained prior to converting these parklands to highway uses. If such approval has previously been obtained, the DEIS should include the approval in the appendices. The DEIS should also discuss the role, if any, of the National Capital Planning Commission in authorizing proposed changes to land use for any parklands purchased with Federal funds.	In 1984, the U.S. Department of Housing and Urban Development issued a letter stating that it would no longer enforce the restrictions initially placed on the conversion of parklands acquired with HUD Open Space Land Program funds. Therefore, no special approval is currently needed to convert these lands to highway use. This letter is referenced in FHWA's Section 4(f) Policy Paper (revised march 1, 2005) and is included in the technical support data files for this project. In addition, the National Capital Planning Commission is recognized as having an interest in parklands in the vicinity of the national capital that were acquired with Capper-Cramton funds. No such parkland acquired with these funds would be converted to highway use as a result of this project, therefore consultation of the National Capital Planning Commission is not necessary.
1772	V.P.1.	The Planning Board's stated positions on mitigation and parkland replacement policy are not consistent with SHA's approach. The clearly stated position of local officials is a requirement.	Section 4(f) mitigation has negotiated with M-NCPPC and all parties have agreed to the proposed mitigation package. Correspondence from M-NCPPC stating their concurrence was received on September 21, 2005 and is contained in Appendix B of the FEIS.
Final Section 4(f) Evaluation, Constructive Use Analysis (4*)			
1773	V.Q.	The DEIS has not provided sufficient information for the public to evaluate whether designated transportation areas adjacent to parks where designated parkland or transportation use. The DEIS should discuss the Constructive Use and quantify those areas claimed to be exempt from Section 4(f).	The FEIS does include a thorough discussion of Constructive Use (See Chapter V, Section Q)
1774	V.Q.1.	Although there is minimal discussion about noise impacts, there is no discussion concerning visual intrusion or restriction of access to parks. How can a reader make an informed decision regarding visual intrusion and restriction of access to parks when the text does not provide an adequate discussion to support its claims? What criteria are used to determine what is or what is not a recreational amenity? Who designates recreational amenities?	Discussion of visual intrusion and restriction of access only occurs in reference to the Constructive Use Analysis. In this analysis, an evaluation of noise, visual intrusion, restriction of access and vibration are included for each resource evaluated for constructive use. These resources only include parks, recreational facilities or historic sites within close proximity to the project, but where no land is proposed to be acquired from the resource for the project. Any resources where there would be a direct acquisition of land are not evaluated for constructive use because, according to the regulations, constructive use does not occur if there is a direct use.
1775	V.Q.1.a.	In a number of instances, the DEIS notes that a Section 4(f) property is currently being used for residential purposes and then concludes that residential use is not "especially sensitive to noise." This conclusion, offered without any support, simply turns logic on its head. To conclude that the continued use of a historic residence for residential purposes does not constitute a use that is sensitive to noise is illogical and contrary to the interpretation of noise-sensitive receptor applied elsewhere in the DEIS. Courts enforcing the provisions of Section 4(f) have recognized that this statute's protections extend to "indirect" takings of protected property as well as physical intrusion.	In Section Q (Constructive Use Analysis) of the Final Section 4(f) Evaluation, an analysis of impacts due to noise was conducted for nine historic sites that received an Adverse Impact determination under Section 106 of the National Historic Preservation Act, but no property would be required by the ICC. In accordance with FHWA noise abatement criteria, private residences are considered to be of Land Use Category B along with other such uses as picnic areas, recreation areas, playgrounds, active sports areas, parks, motels, hotels, schools, churches, libraries, and hospitals. These areas have an average sensitivity to noise. Those properties falling under Land Use Category A are considered to be lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose. These are the only properties considered to be "especially sensitive to noise".
1776	V.Q.1.a.	Noise pollution would further affect many of our finest parks. Noise pollution of this nature is well known to disrupt nesting of interior-forest dwelling birds, a serious environmental concern.	Noise analyses for all ICC alternatives and options were conducted in accordance with FWHA criteria and SHA Sound Barrier Policy. Noise levels were determined at location of noise sensitive use. These are ground level locations of common human activity within a noise sensitive land use. SHA has interpreted policy such that publicly owned parks are not considered a noise sensitive use except at picnic areas, pavilions, band shells, amphitheaters, and similar locations. Per the request of FHWA, additional analysis has been performed for parks and mapping has been prepared that shows Impact Zones within parks. Regarding FIDS, for impact calculation purposes a new 300 foot buffer has been established on either side of the highway.
Environmental Stewardship (27*)			
1777	VI.	What is the cost to lower the total percentage of impervious surface in the Upper Paint Branch Special Protection Area to 8% through such methods as installing rain barrels, rain gardens and storm chambers for free; removing patios and other impervious surfaces for free; replacing impervious surfaces with pervious ones; buying houses on the open market, removing all extraneous impervious surfaces and reselling houses with impervious surface limit covenants; buying houses on the open market, demolishing the houses, removing all impervious surfaces, and turning the vacant land into passive recreation parkland or open space?	The Lead Agencies have committed to working with M-NCPPC to determine acceptable means for addressing the impervious area caps in the Upper Paint Branch and North Branch Rock Creek Special Protection Areas. Such means may include methods such as rain barrels and gardens; however, purchase and retrofitting or demolishing houses is not envisioned as part of the process.
1778	VI.	Building an Interstate highway does not improve the environment.	As this FEIS demonstrates, there are significant environmental impacts associated with construction of an interstate highway. The Build Alternatives would also include an "Environmental Stewardship" component. This would include state-of-the-art efforts focused on restoring, creating, or enhancing study area features' functions and values from past developments (please refer to the ICC Environmental Stewardship Technical Memorandum I-270 to US 1 (SHA, 2004) for more details). Opportunities to restore or enhance natural, cultural, and human resources would include, but not be limited to water quality improvements, stream habitat restoration, parkland trails recreation and enhancement, community enhancement opportunities, cultural resource preservation, increased acreage of wetlands and forests, highway and bridge beautification.
1779	VI.	We are informed in the DEIS that the Bonifant Floodplain ES Area contains State rare/watchlist species. How will the crossing of this floodplain impact these species? A serious DEIS would seek to answer this question.	The loss of some state rare and watchlist species within the Bonifant Floodplain ES Area is unavoidable. Extensive efforts were taken to avoid as many resources, including rare and watchlist species, as possible. The crossing of the Bonifant floodplain will affect several rare or watchlist species primarily through direct clearing of forest in the area. In addition, there may be some indirect loss of these species as well. Direct and indirect impacts to rare, threatened or endangered species are described in more detail in the Chapter 4, Section F. 10 of the FEIS.

* Denotes total number of comments, including comments noted more than once.