

Appendix N

Comments and Responses

**Final Environmental Assessment and Section 4(f) Determination
Proposed Improvements 2016-2020 at BWI Marshall Airport**

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APPENDIX N:

Comments and Responses

The Draft EA and Draft Section 4(f) Determination was made available for public and agency review and comment from January 5, 2018 through February 5, 2018. This appendix contains a matrix detailing the comments received and the responses thereto (*Attachment 1*) as well as the original comment letters and e-mails received (*Attachment 2*). Comments were received from Howard County on March 9, 2018, and MDOT MAA and FAA have considered and responded to these comments herein, as detailed in *Attachment 1*.

An Updated Draft EA and Draft Section 4(f) Determination was re-issued for public comment on February 6, 2020 in order to present updated information related to project planning and to respond to public comments on the January 2018 issuance of the Draft EA and Draft Section 4(f) Determination. As a result of public health guidance and at the direction of the State of Maryland (as it related to the COVID-19 pandemic), the MDOT MAA postponed the public workshop and the comment period was extended through June 4th, 2020. Several comments received after this date were also accepted by MDOT MAA. A comment and response matrix for comments received on the Updated Draft EA are included in *Attachment 3*. The emails and letters received are included in *Attachment 4*. A comment and response matrix for the “chat” session questions and comments received during the Mary 21, 2020 Virtual Public Workshops are included in *Attachment 5*. A transcript of the chat session is included in *Attachment 6*.

- Attachment 1: Draft EA and Draft Section 4(f) Determination Comment Response Matrix, March 2018
- Attachment 2: Draft EA Comment Letters and E-mails, March 2018
- Attachment 3: Updated Draft EA and Draft Section 4(f) Determination Comment Response Matrix, June 2020
- Attachment 4: Updated Draft EA Comment Letters and E-mails, June 2020
- Attachment 5: Updated Draft EA Virtual Public Workshop Comment and Response Matrix, May 21, 2020
- Attachment 6: Updated Draft EA Virtual Public Workshop “Chat” Transcript, May 21, 2020

Attachment 1:

Draft EA and Draft Section 4(f) Determination Comment Response Matrix

March 2018

Changes made to Updated Draft EA and Draft Section 4(f) Determination that Impact Response to January 2018 Draft EA Public Comments

The following public and agency comments were received on the January 2018 Draft EA and Section 4(f) Determination. Responses to these comments were developed based on the analysis provided in the January 2018 Draft EA and Section 4(f) Determination. It was subsequently determined that the Draft EA and Section 4(f) Determination would be updated and reissued for public review. The Updated Draft EA and Section 4(f) Determination published in February 2020 included comments and responses to the January 2018 Draft EA in Appendix N, Attachment 1 unmodified to reflect document updates.

As a result of the reissuance of an Updated Draft EA and Section 4(f) Determination, some of the Draft EA comment responses were found to be outdated in finalizing the document, specifically:

- The Updated Draft and Final EA and Section 4(f) Determination includes an update of existing conditions to 2018 (previously 2016) and updates to the noise analysis including an updated aviation activity forecast.
- The timeframe for projects included in the Proposed Action in the January 2018 Draft EA and Section 4(f) Determination was reevaluated due to the need to re-issue the document. Completion of these projects is now expected in 2022. For this reason, the Updated Draft and Final EA and Section 4(f) Determination includes the proposed improvements considered necessary through 2022 (previously 2020).
- Accordingly, the future analysis years were shifted to 2022 and 2027 (previously 2020 and 2025).

The responses provided to the January 2018 Draft EA and Section 4(f) Determination remain valid as it relates to impacts to the environment and community concerns.

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| AGENCY COMMENTS | | | | | | |
| 1 | Maryland Department of Planning | 02/06/18 | General | <p>In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.01.04-.06, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation. This recommendation is valid for a period of three years from the date of this letter.</p> <p>Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning including the Maryland Historical Trust. As of this date, the Maryland Department of Natural Resources and Anne Arundel County have not submitted comments.</p> <p>The Maryland Department of Planning, including the Maryland Historical Trust found this project to be consistent with their plans, programs, and objectives.</p> | Comment noted. | No change. |
| 2 | Maryland Department of Planning | 02/06/18 | General | <p>Our Department (Planning) "supports the proposed safety-related and minor capacity-related improvements made to landside facilities at the BWI Marshall Airport. The modifications will help reduce traffic congestion and improve access and egress within the airport terminal roadways. Existing runways were recently upgraded and will not be extended or widened during the life of this plan. Several existing taxiways and ramps will be resurfaced and/or relocated due to FAA mandated minimum separation. Several parking facilities will also be resurfaced. Obstructions will be identified and removed within and around the airport property. We are encouraged to see the MAA consider leveraging mobile applications which will help passengers arrange pick-up along a greater area in the lower terminal roadway, helping to reduce the bunching of cars along the road adjacent to Terminal A and B."</p> | Comment noted. | No change. |
| 3 | Maryland Department of Planning | 02/06/18 | General | <p>The Maryland Historical Trust has determined that the project will have "no effect" on historic properties and that the federal and/or State historic preservation requirements have been met.</p> | Comment noted. | No change. |
| 4 | Maryland Department of Planning | 02/06/18 | General | <p>The Maryland Department of Environment (MDE) found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments summarized below.</p> <ol style="list-style-type: none"> 1. If the applicant suspects that asbestos is present in any portion of the structure that will be renovated/demolished, then the applicant should contact the Community Environmental Services Program at (410) 537-3215 to learn about the State's requirements. 2. Construction, renovation and/or demolition of buildings and roadways must be performed in conformance with State regulations pertaining to | Comment noted, MAA will comply with all applicable state and local laws and regulations for design and construction of proposed improvements. | No change. |

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| | | | | <p>"Particulate Matter from Materials Handling and Construction" requiring that during any construction and/or demolition work, reasonable precaution must be taken to prevent particulate matter, such as fugitive dust, from becoming airborne.</p> <p>3. 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 at (410) 537-4125 for further information regarding threshold limits.</p> <p>4. 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 Management Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.</p> <p>5. 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.</p> <p>6. 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 Waste Diversion and Utilization Program at (410) 537-3314 for additional information regarding recycling activities.</p> <p>7. The Waste Diversion and Utilization 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.</p> <p>8. Any contract specifying "lead paint abatement" must comply with Code of Maryland Regulations. If a property was built before 1950 and will be used as rental housing, then compliance with COMAR 26.16.02 is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.</p> <p>9. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. For specific information about these programs and eligibility, please contact the Land Restoration Program at (410) 537-3437.</p> <p>Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse. The State Application</p> | | |

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| | | | | <p>Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation.</p> <p>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 myra.barnes@maryland.gov. Also, please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.</p> | | |
| 5 | Maryland Department of Natural Resources | | | <i>No comments submitted (as of 2/6/18).</i> | | |
| 6 | Anne Arundel County Recreation and Parks | | | <i>No comments submitted (as of 2/6/18).</i> | | |
| 7 | Maryland Federal Consistency Coordinator, Wetlands and Waterways Program, Water and Science Administration, Maryland Department of the Environment | 2/8/18 | Forest, Water Resources, Coastal Resources | <p>The EA notes that the proposed improvements will result in 135.7 acres of forest clearing, and will impact 5.73 acres of nontidal wetlands, 6.84 acres of State-regulated nontidal wetlands buffer, 7.07 acres of floodplain, and 1,042 linear feet of stream. To meet the Forest Conservation Act requirements, MAA will mitigate the forest impacts through the placement of DNR Forest Conservation Easements on MAA property. As you know, the nontidal wetlands, waterways, and floodplain impacts will require authorization from the Wetlands and Waterways Program. Appropriate mitigation for these impacts will be determined as part of the permit application review process.</p> <p>Based on the information presented in the EA, the proposed improvements are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the CZMA, contingent upon the issuance of the required authorization(s) for the proposed impacts to nontidal wetlands, waterways, and the 100-year nontidal floodplain. Please note that this determination does not obviate MAA's responsibility to obtain any other State approval that may be necessary for the proposed activities.</p> | <p>Comment noted.</p> <p>2020 UPDATE: An updated Coastal Consistency Determination was received for the Updated Draft EA and Section 4(f) Determination on May 7, 2020, see Appendix N, Attachment 4.</p> | No change. |
| 8 | Howard County Office of Law | 3/9/18 | General | The Draft EA is legally insufficient in several respects and is not based on sufficient evidence. | The EA was developed in accordance with the Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i> ; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i> . The technical analysis conducted to develop the Draft EA provides sufficient information to support the findings included. | No change. |
| 9 | Howard County Office of Law | 3/9/18 | Noise | The Draft EA is based on non-representative and outdated noise data that MAA has acknowledged does not reflect actual conditions. Additionally, because FAA unilaterally abandoned the 14 CFR Part 150 Noise Compatibility Planning process, which is nowhere addressed in the Draft EA, all of the assumptions about harmful impacts due to noise, based on FAA compliance with Part 150 Planning and the outdated data, are false. | The BWI Marshall EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial – the noise model used for the EA models how aircraft actually fly. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 | No change. |

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| | | | | | EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. This aircraft operational data reflects aircraft use of recent FAA flight track changes, including the TERPZ 6 route. None of the MAA correspondence identified by the comments suggest or state that the data used for the EA noise analysis does not reflect actual conditions. | |
| 10 | Howard County Office of Law | 3/9/18 | Noise | Moreover, the Draft EA completely fails to acknowledge the highly controversial and significant harmful impacts that aircraft noise has had on Maryland citizens, including Howard County residents, as a result of FAA's implementation of NextGen. | The EA reflects the cumulative effects of FAA's recent NextGen implementation, because the changes are reflected in the noise analyses. Nonetheless, the BWI Marshall EA's direct impact analysis is focused on the potential environmental impacts of the Proposed Action, which was the proposed improvements that are considered necessary for BWI Marshall Airport through 2020. The Proposed Action analyzed in the BWI Marshall EA does not influence flight tracks, track use, or runway use. The FAA's decision to implement Performance Based Navigation flight procedures is unrelated to the proposed improvements included in the EA and Section 4(f) Determination and therefore is not the focus of the EA or the Proposed Action. | No change. |
| 11 | Howard County Office of Law | 3/9/18 | Air Quality, Climate, Land Use, Historic Preservation, Forest | Furthermore, the Draft EA is deficient in its failure to include sufficient analysis of other environmental impacts related to air quality, climate change, land use, historic preservation, and deforestation, and its almost complete failure to consider impacts in Howard County. | The BWI Marshall EA includes an appropriate level of analysis of air quality and greenhouse gas (GHG) emissions from the construction of the Proposed Action improvements, as well as future aircraft operations. Construction emissions were determined to be well below <i>de minimis</i> levels. Aircraft emissions are identical between the No Action and Proposed Action as the Proposed Action has no impact on the forecasted operations at BWI Marshall Airport. The analysis of land use impacts included potential impacts of the Proposed Action related to noise, socioeconomics, natural resources and wildlife hazards. The Proposed Action is consistent with local land use plans, as the majority of the projects are located within Airport property, with the exception of off-airport vegetation removal. The analysis of noise-compatible land use determined that no additional housing units or residents, or noise sensitive sites (including historic sites) exist between the No Action and Proposed Action Alternatives. Howard County land use data was included in the noise-compatible land use analysis (Section 5.11.4.4). The tree removal included as part of the Proposed Action is not deforestation, rather select trees on private properties must be removed to address safety concerns. The tree removal included on MAA property will be mitigated appropriately through a forest management plan to ensure that trees that can remain or that are planted in replacement for trees that are deemed to be obstructions are appropriate for the area. Further, the analysis of impacts to biological resources included a detailed summary of forest and tree clearing resulting from each improvement project, as well as the application of appropriate mitigation as agreed to by the responsible resource agencies (i.e. Maryland Department of Environment and Maryland Department of Natural Resources). | No change. |
| 12 | Howard County Office of Law | 3/9/18 | General | For all these reasons, FAA must deny the request for approval of the Proposed Action. Relying on the Draft EA would be arbitrary and capricious and would violate several State and federal statutes. Given the significant, and unexamined, harmful effects of the Proposed action on the quality of the human environment, | The FAA will make the decision as to perform an EIS or not based on the information in the EA and public comments. The FAA will determine whether environmental impacts associated with the Proposed Action (e.g., wetlands and forest impacts) in the BWI Marshall EA are significant with the application of appropriate mitigation measures as | No change. |

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| | | | | FAA should order MAA to perform a full Environmental Impact Study pursuant to NEPA, NHPA, and Section 4(f) that includes Howard County, and is based on relevant and reliable noise data. | agreed to by the responsible resource agencies (i.e., U.S. Army Corps of Engineers, Maryland Department of Environment and Maryland Department of Natural Resources). The analysis is neither arbitrary nor capricious as it was completed using the regulations included in FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i> ; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i> . | |
| 13 | Howard County Office of Law | 3/9/18 | General | The Draft EA contains numerous deficiencies that render it non-compliant with the mandates of Maryland State law, NEPA, NHPA, and Section 4(f). Perhaps most significantly, it excludes any meaningful consideration of Howard County. | Applicable Maryland State law, NEPA, NHPA, and Section 4(f) regulations were followed in the development of the Draft EA. Impacts were considered with the defined study areas for each resource category. The study area was developed considering the geographic area where the alternatives being considered would potentially be impacted directly or indirectly using significance thresholds defined by the FAA or in consultation with the specific resources agency if a FAA significance threshold was not defined. In accordance with the significance thresholds observed, Howard County resources were not impacted by the Proposed Action. None of the proposed improvements associated with the Proposed Action are located in Howard County. The noise analysis for both the No Action and Proposed Action Alternatives indicates that the 65 dB DNL will cross into Howard County in only one small undeveloped area near Coca Cola Drive by 2025 using Howard County GIS data to define the county boundary. Aerial photography (Google Earth 2018) shows that the area that would be included in the 65 dB DNL in 2025 is presently wooded. Land use mapping for this area indicates Commercial use and Manufacturing and Production uses are approved for this area, making the noise levels expected by 2025 compatible with future development under both State and FAA noise compatibility guidance. | No change. |
| 14 | Howard County Office of Law | 3/9/18 | Noise | But it also proffers inaccurate data to support its noise analysis. This is because FAA's unilateral abandonment of State and federal noise abatement programs and FAA's implementation of new flight procedures have created significantly different noise contours than those depicted and relied upon in the Draft EA. The vast majority of noise data underlying the Draft EA is from before 2015. | The Draft EA models noise as generated by aircraft operations and maintenance as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial– the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample and included FAA's implementation of NextGen procedures, including the TERPZ 6 procedures. | No change. |
| 15 | Howard County Office of Law | 3/9/18 | Noise | Because the Proposed Action is dedicated to "improving efficiency," "increasing operations," and accommodating "anticipated demand" it will have the direct and cumulative impact of significantly increasing harmful noise impacts on Maryland citizens, including the citizens of Howard County. | The commenter incorrectly states the need for the Proposed Action. The Proposed Action is needed to: meet FAA design standards; accommodate existing and anticipated demand; improve customer service; and provide NEPA review of previously acquired property. The BWI Marshall EA does not propose or foresee an increase in the number of flights due to the improvements that are considered necessary for BWI Marshall through 2020. None of the proposed improvements will materially affect BWI Marshall Airport's ability to accommodate overall aircraft operations demand that would occur regardless of the improvements; BWI Marshall Airport can accommodate the | No change. |

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| | | | | | forecasted levels of demand for both enplanements and operations without the Proposed Action, albeit not at the same level of safety and efficiency. The Proposed Action defines improvements necessary to safely and efficiently accommodate the level of operations and passengers that are anticipated to use BWI Marshall Airport through 2020. The EA does not evaluate the growth in operations that is expected to occur due to demand to fly for business, personal and recreational reasons because none of the proposed actions unto themselves drive the forecasted growth in air carrier operations. The forecasted growth in operations is not induced by the improvements that are proposed for BWI Marshall through 2020 and reviewed in the EA, which is reflected in the identical number of flight operations being presented for both the future No Action and Proposed Action Alternatives. | |
| 16 | Howard County Office of Law | 3/9/18 | Noise | Additionally, because the noise analysis is based on inaccurate information, the Draft EA land use analysis has also been subverted and is insufficient. Compounding these errors, the Draft EA's analysis of air quality, climate change, land use, historic preservation, and deforestation is also deficient. | The Existing Conditions noise exposure contour was developed using, among other sources, actual flight track data as stated in Appendix K. The representative sample of flight tracks include use of the air traffic procedures in place at the time, including FAA's NextGen flight procedures. Similarly, the Proposed Action and No Action noise exposure contours for both 2020 and 2025 include use of the air traffic procedures in place through June 2016, capturing all the FAA's implemented NextGen flight procedures at BWI Marshall. In consideration of this fact, the Draft EA appropriately addressed air quality, climate change, land use, and historic preservation associated with aircraft operations. Tree removal to meet part 77 obstructions is appropriately addressed in Sections 5.2, <i>Biological Resources</i> and 5.14, <i>Water Resources</i> . The tree removal included as part of the Proposed Action is not deforestation. Select trees on private properties must be removed to address safety concerns. The tree removal included on MAA property will be mitigated appropriately through a forest management plan to ensure that trees that are allowed to remain or that are planted in replacement for trees that are deemed to be obstructions are appropriate for the area. | No change. |
| 17 | Howard County Office of Law | 3/9/18 | Noise | Header: The Proposed Action Will Cause Significant Harms to the Human Environment The Proposed Action involves massive development of the Airport in an effort to increase "activity levels through 2020." (Draft EA at 2.1.2). The result of this development will increase the harmful impacts of NextGen aircraft noise. The Draft EA makes clear that the proposed development is intended to increase runway system efficiency. Draft EA at 2-4 and 3-11. The Proposed Action is also directed to address "anticipated demand." Draft EA 2-5 and 3-14. The Draft EA acknowledges that noise impacts will increase because of increased operations due to the Proposed Action. Draft EA K-3-7. | The BWI Marshall EA does not propose or foresee an increase in the number of flights due to the improvements that are considered necessary for BWI Marshall through 2020. The Proposed Action is not a massive development but one needed to meet the purpose and need: meet FAA design standards; accommodate existing and anticipated demand; improve customer service; and provide NEPA review of previously acquired property. None of the proposed improvements will materially affect BWI Marshall Airport's ability to accommodate overall aircraft operations demand that would occur regardless of the improvements. The Proposed Action defines improvements necessary to accommodate the level of operations and passengers that are anticipated to use BWI Marshall Airport through 2020 efficiently and safely. The BWI Marshall EA does not evaluate the growth in operations that is expected to occur due to demand to fly for business, personal and recreational reasons because none of the proposed actions unto themselves drive the forecasted growth in air carrier operations. The forecasted growth in operations is not induced by the improvements that are proposed for BWI Marshall through 2020 and reviewed in the EA, which is reflected in the identical number of flight operations being presented for both the future No Action and Proposed Action Alternatives. | No change. |

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| 18 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Proposed Action Will Cause Significant Harms to the Human Environment</p> <p>There is voluminous evidence of harmful impacts already. See Exhibit C. These impacts were not properly addressed in the DC Metroplex OAPM EA. ¹ Approving the Draft EA would add to the cumulative impacts by continuing to ignore the significant effects caused by federal action at BWI. Because of the direct and cumulative impacts that will result from the Proposed Action, and for the reasons stated below, the Draft EA is not an adequate evaluation of impacts to the environment, nor is it a detailed review of the Proposed Action, as required by FAA Orders 5050.4B and 1050.1F.</p> | <p>The BWI Marshall EA analysis is independent from the DC Metroplex OAPM project. However, the Proposed Action and No Action Alternative noise exposure contours for both 2020 and 2025 include use of the air traffic procedures implemented as part of the DC Metroplex OAPM project. Thus, the impacts of the DC Metroplex OAPM procedures are addressed in the EA. The Proposed Action would not result in significant noise impacts, as the forecasted operations are identical between the No Action and Proposed Action Alternatives. The EA was developed in accordance with the Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i>; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i>.</p> | No change. |
| 19 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Draft EA Relies On Outdated and Inaccurate Noise Data</p> <p>Old noise data was used in the Draft EA despite significant changes to air traffic. MAA's analysis in the Draft EA is based almost exclusively on data that is from 2014 or earlier. MAA has admitted this data is invalid because the 2014 Noise Contour Maps do not reflect real flight conditions due to FAA's implementation of NextGen flight procedures at BWI beginning in 2015. MAA attempted to partially address this by presenting "Existing Noise Contour Maps" based on only five weeks of data, three weeks of which were in 2015, before significant flight path changes occurred in February of 2016. The Existing Noise Contour Maps are not representative of noise resulting from BWI departures and MAA's existing noise exposure maps remain inaccurate. The real, existing, and future noise contours are indisputably different from what MAA relies upon because FAA significantly changed flight procedures without notice and the MAA noise monitoring system has been largely non-operational over the last 18 months.</p> | <p>The BWI Marshall EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial – the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. The five weeks of radar data were selected to include spring, fall, and winter plus two weeks in summer (peak operation season for BWI Marshall Airport). The selected representative weeks cover all of the top 12 runway configurations in a manner consistent with the overall runway configuration usage. The Proposed Action and No Action Alternative noise exposure contours for both 2020 and 2025 include use of the air traffic procedures in place through June 2016. Both TERPZ 5 and TERPZ 6, related to departures off of Runway 28 were modeled in the Existing Condition, and TERPZ 6 was modeled in the future No Action and Proposed Action Alternatives. Figures 1 and 2 illustrate the modeled tracks used for departures off of Runway 28 and 15R, respectively, in the noise analysis for both 2020 and 2025 No Action and Proposed Action Alternatives, highlighting the shift in track location associated with the TERPZ 6 procedure. Tables 1 and 2 provide the change in track use between 2016 (annualized track use), and 2020 and 2025 illustrating the use of TERPZ 6 beginning in June of 2016, clearly indicating that the future use of the TERPZ 6 procedure is included in the noise analysis.</p> | No change. |

¹ The DC Metroplex was an early inductee to NextGen and so got the worst of FAA's unlawful implementation, but FAA's actions in implementing NextGen flight procedure changes that were not in accordance with federal law has been documented in *City of Phoenix* and *Georgetown*. In the DC Metroplex, FAA actively mischaracterized its activities as having little to no effect below 3,000 feet altitude. FAA Finding of No Significant Impact for the DC OAPM (2013). In fact, there have been significant changes below 3,000 feet that FAA failed to disclose and which are adversely affecting thousands of Maryland residents, including in Howard County. FAA acknowledged this by creating the BWI Community Roundtable but, its interactions with the Roundtable have continued the misrepresentations and mischaracterizations by FAA.

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| 20 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Draft EA Relies On Outdated and Inaccurate Noise Data</p> <p>The noise data relied on in the Draft EA does not represent real-life conditions because the majority of noise data was collected in 2014 and earlier.² However, in 2015, 2016, and 2017, FAA implemented new navigation waypoints and flight procedure changes that were not consistent with the federally approved and State required BWI Noise Abatement Plan ("NAP"). MD CODE ANN., TRANSP. § 5-805. In particular, the implementation of the TERPZ6 waypoint and the relocation of the WONCE waypoint contributed to a shift that had already begun of Runway 28 departures further to the north. [Exhibit References] But MAA fails to adequately acknowledge any of this in the Draft EA. Instead, MAA relies on old noise data that MAA admits is no longer valid and a very limited set of new data, derived from computer models, that is not representative of current flight paths.</p> | <p>The BWI Marshall EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial – the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. Figures 1 and 2 illustrate the modeled tracks used for departures off of Runway 28 and 15R, respectively, in the noise analysis for 2020 and 2025 both No Action and Proposed Action Alternatives highlighting the shift in track location associated with the TERPZ 6 procedure. Tables 1 and 2 provide the change in track use between 2016 (annualized track use), and 2020 and 2025 illustrating the use of TERPZ 6 beginning in June of 2016, clearly indicating that the future use of the TERPZ 6 procedure is included in the noise analysis. Note also that the FAA’s flight procedures and management of the airspace is not subject to the BWI Noise Abatement Plan, nor is the Plan affected by the Proposed Action evaluated in this EA.</p> | No change. |
| 21 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Draft EA Relies On Outdated and Inaccurate Noise Data</p> <p>A review of flight track imagery produced by FAA and MAA shows clearly that noise contour maps created in 2014 bear no relation to current noise contours, which have moved as a result of FAA's flight procedure changes, and which include areas of Howard County. [Exhibit G] It is telling that even incorporating only two weeks of 2016 flight track data, the Existing Noise Contours moved significantly to the north. Accurate data from flight tracks that are currently being flown would show a further movement north over areas of Howard County, including schools, that have not historically experienced 65dB DNL noise impacts.</p> | <p>The BWI Marshall EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial – the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. Figures 1 and 2 illustrate the modeled tracks used for departures off of Runway 28 and 15R, respectively, in the noise analysis for 2020 and 2025 both No Action and Proposed Action Alternatives highlighting the shift in track location associated with the TERPZ 6 procedure. Tables 1 and 2 provide the change in track use between 2016 (annualized track use), and 2020 and 2025 illustrating the use of TERPZ 6 beginning in June of 2016, clearly indicating that the future use of the TERPZ 6 procedure is included in the noise analysis.</p> | No change. |

² FAA approved the BWI noise exposure maps in 2016. 81 FR 59714-01 (August 30, 2016). This was based on the Airport Noise Zone Update prepared by MAA in 2014; revisions to the 2014 Update in 2016 did not affect noise contours, land use inventory, or population estimates.

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| 22 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Draft EA Relies On Outdated and Inaccurate Noise Data</p> <p>The noise model inputs used to develop noise contours are supposed to rely on "representative flight track descriptions." BWI Airport Noise Zone Update ("ANZ Update") at 5. Because the flight tracks have changed, the old data is not a sufficient basis upon which to base the Draft EA noise analysis. FAA cannot continue to ignore the significant flight path changes that will increase under the Proposed Action, and which have caused harms to the people of Howard County. A full EIS must be performed that includes current flight track information and noise monitoring data.</p> | <p>The Draft EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial– the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. The five weeks of radar data were selected to include spring, fall, and winter plus two weeks in summer (peak operation season for BWI Marshall Airport). The selected representative weeks cover all of the top 12 runway configurations in a manner consistent with the overall runway configuration usage. The Airport Noise Zone (ANZ) for BWI Marshall was certified in 2014 and it would be expected that the ANZ will be updated in 2019. It should be noted that the only project that would have an impact on noise is the construction of the proposed Airline Maintenance Facility due to additional engine maintenance run-up operations. The noise analysis for the Proposed Action shows noise increases only around the proposed Airline Maintenance Facility due to engine maintenance run-ups. This area is the only notable change in the noise contours when compared to the No Action Alternative. This change in noise occurs within areas that are compatible with the Proposed Action (i.e. commercial and manufacturing and production).</p> | No change. |
| 23 | Howard County Office of Law | 3/9/18 | Noise | <p>Header: The Draft EA Relies On Outdated and Inaccurate Noise Data</p> <p>It is clear from Figure K-2-4, that even the <i>de minimus</i> analysis of two weeks from 2016 significantly moved the noise contours to the north. An accurate noise exposure map would show them even further north. Figure 2-29 in Appendix K-2 shows the inaccuracy of the modeled efforts. Many radar flight tracks lie far outside the modeled paths.</p> | <p>The Draft EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial– the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. The development of modeled flight tracks for use in the AEDT includes "back bone" tracks which are represented in Appendix K. The tracks align with the most heavily used flight paths. Not shown on the graphics in Appendix K is the dispersion of those back bone tracks, which incorporates the extent of radar track dispersion in the noise modeling done through AEDT. Dispersion for back bone tracks varies based upon the type of procedure, specifically satellite based procedures have less dispersion than aircraft that use ground based navigation.</p> | No change. |

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| 24 | Howard County Office of Law | 3/9/18 | Noise | Header: The Draft EA Relies On Outdated and Inaccurate Noise Data Moreover, because Runway 15R was also affected by the flight procedure changes and that traffic travels over the same areas of Howard County as Runway 28 departures, the noise levels in those areas have not been properly modeled. | Figure 2 illustrates the modeled tracks used for departures off Runway 15R in the noise analysis for both 2020 and 2025 No Action and Proposed Action Alternatives, highlighting the shift in track location associated with the TERPZ 6 procedure. Table 2 provides the change in track use between 2016 (annualized track use), and 2020 and 2025 illustrating the use of TERPZ 6 beginning in June of 2016, clearly indicating that the future use of the TERPZ 6 procedure is included in the noise analysis. | No change. |
| 25 | Howard County Office of Law | 3/9/18 | | Header: The Draft EA Relies On Outdated and Inaccurate Noise Data The Draft EA indicates that the Proposed Action will increase 65dB DNL noise contours by 8.3%, particularly off of Runway 28. Draft EA K-3-8. Confusingly, the Draft EA states elsewhere that the Proposed Action noise contours are expected to increase 1.3% over the No Action alternative. Draft EA at 5-32. Based on the increase in traffic that is the purported need for the Proposed Action, it makes no sense that the No Action alternative would result in the same noise impacts as the Proposed Action. An EIS should be performed based on real data so that a genuine alternatives analysis can occur, and real impacts evaluated. | The Proposed Action and No Action Alternatives include an identical number of flight operations in future years. The noise analysis for the Proposed Action shows noise increases only around the proposed Airline Maintenance Facility due to engine maintenance run-ups. This area is the only notable change in the noise contours when compared to the No Action Alternative. This change in noise occurs within areas that are compatible with the Proposed Action (i.e. commercial and manufacturing and production). No residential, educational, park, church or other sensitive uses are included in this area. The Draft EA states that compared with the Part 150 Study 2019 noise contours, the areas within the 65+DNL of the BWI EA 2020 Proposed Action noise contours are projected to increase by 8.3%, and that a direct comparison between the No Action and Proposed Action 65+ DNL contour areas indicates that the Proposed Action is expected to increase the contour area by approximately 1.3% in both 2020 and 2025. | No change. |
| 26 | Howard County Office of Law | 3/9/18 | Noise | Header: The Draft EA Relies On Outdated and Inaccurate Noise Data It is important to note that throughout this time the MAA Noise Monitoring System has been barely functional. Throughout 2015 and 2016, only 7 out of 23 noise monitoring stations were operational. See Exhibit H. There are no results from 2015 for Columbia or the two Hanover locations. MAA acknowledged in 2014 that the noise monitoring systems was "outdated" and that "several pieces of equipment have failed." ANZ Update at 59. The paucity of real data available means that an EIS must be performed. It is also noteworthy that MAA has conducted several noise studies in the last two years, due to massive increase in complaints, yet none of them were utilized or even mentioned in the Draft EA. | Noise contours and the ANZ are developed using predictive modeling based on existing and forecast operations, as well as any new airport construction, if applicable. Consistent with applicable FAA guidance and orders, noise contours are not developed using noise monitoring data. Accordingly, the status of Airport noise monitors does not affect the predictive accuracy of FAA noise models. Further, it is not possible to use noise monitors to predict future noise contours. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. It is unclear which studies the commenter is referencing, however, the modeling completed for the Draft EA is appropriate. No studies developed by the State or the FAA are inconsistent with this noise analysis. | No change. |
| 27 | Howard County Office of Law | 3/9/18 | Noise | Header: The Draft EA Relies On Outdated and Inaccurate Noise Data Increases in night operations, increases in stage-length, and the introduction of a new maintenance facility and de-icing pad, that will increase noise producing run-up operations are additional factors that contribute to expanding noise contours that are not sufficiently captured or analyzed in the Draft EA. | The number of operations occurring during nighttime hours and the assumptions of stage length remain consistent between the No Action and Proposed Action Alternatives. The noise analysis for the Proposed Action shows noise increases only around the proposed Airline Maintenance Facility due to engine maintenance run-ups. This area is the only notable change in the noise contours when compared to the No Action Alternative. This change in noise occurs within areas that are compatible with the Proposed Action (i.e. commercial and manufacturing and production). The remaining improvements do not result in noise increases in the Proposed Action as compared to the No Action Alternative. | No change. |

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| 28 | Howard County Office of Law | 3/9/18 | Noise | Header: The Draft EA Relies On Outdated and Inaccurate Noise Data Compounding the failure of MAA's noise analysis, is the fact that the BWI NAP and Airport Noise Zone ("ANZ") are currently in violation of State law because they do not reflect the significant flight procedure changes implemented by FAA. State law requires that the largest of the three contours (65dB+) in any area around the Airport determines the ANZ thereby offering protection within the largest of the existing or future noise exposure contours. ANZ Update at 53. Although the new procedures were implemented in 2015 and 2016, MAA has not updated the ANZ as required by law. TRANSP. §§ 5-805(b), 5-806, and 5-819. Given MAA's ongoing non-compliance with State law regarding noise abatement, and the fact that new areas of Howard County are now in the 65dB DNL, which constitutes a significant change, approval of the Draft EA would be arbitrary and capricious. | The current ANZ was developed in 2014 and represents the largest of the three contours around the Airport (between existing and future years). No areas of Howard County are within the current ANZ. As required by TRANSP. §§ 5-805(c), "Unless required earlier as part of an environmental impact study or by the Executive Director, an assessment of the noise environment for each airport and any noise abatement plan required by this section shall be submitted to the Executive Director for approval by July 1 of each fifth year after July, 1976." It would be expected that the ANZ will be updated in 2019 to represent any changes in the noise environment around the Airport. Regardless, the status of the ANZ is a separate matter from and has no bearing on the Proposed Actions considered in the EA. | No change. |
| 29 | Howard County Office of Law | 3/9/18 | Noise Compatible Land Use | Header: The Draft EA Land Use Analysis is Insufficient MAA unreasonably relies on a land use analysis that ignores FAA's abandonment of a huge land use program that is imbedded in State law, the ANZ. State law requires NAP be established where an impacted land use area lies within a noise zone and where adjustments are necessary due to operational changes. TRANSP. § 5-805(b). MAA has failed to comply with both statutory mandates. ³ Howard County lies within a noise zone and operational changes require adjustment to existing plans. See COMAR 11.03.01.02B(3), which requires that Howard County be included in the BWI Noise Zone. | This comment is not relevant to the BWI Marshall EA. The Proposed Action within the BWI Marshall EA does not induce or change aircraft operations. Operational changes at BWI Marshall Airport are independent of the Proposed Action and would result in identical impacts to the BWI Noise Zone under both the No Action and Proposed Action Alternatives. No portion of the 2014 ANZ encroaches upon Howard County property. It would be expected that the ANZ will be updated in 2019 to reflect existing and future conditions. Further, FAA is not subject to the ANZ provisions, which apply only to the Airport. | No change. |
| 30 | Howard County Office of Law | 3/9/18 | Noise Compatible Land Use | Header: The Draft EA Land Use Analysis is Insufficient Instead of addressing these issues, MAA relies on the 2014 noise contour maps, not the Existing Noise Contour maps, in its land use analysis. Draft EA 4-39, Fig. 4-10-2. Consequently, while the Draft EA discusses the Anne Arundel County General Development Plan, there is no discussion at all of Howard County land use planning. Draft EA section 4.13 also fails to discuss Howard County. Additionally, the land-use analysis relies on 2014 forecasts of noise levels in 2019 and 2024, Draft EA 4-39, which are demonstrably wrong due to the new flight procedure changes. Thus, the land use analysis is insufficient, whether it includes Howard County or not. | The commenter describes the materials used for describing the affected environment which correctly cites the existing ANZ. The base condition for the BWI Marshall EA is 2016, which is depicted on Figures 4.12-1 and 4.12-2, neither of which show the 65 dB DNL contours extending into Howard County. However, Howard County GIS information was used to show land uses beyond the extent of the 65 dB DNL contour. The analysis of potential impact due to the Proposed Action is described in Chapter Five, Environmental Consequences. 2020 UPDATE: The Updated Draft EA and Section 4(f) Determination includes revisions to the noise analysis and update the existing conditions to 2018 (previously 2016), incorporating an updated aviation activity forecast. The 2018 existing conditions DNL 65 dB contours extend minimally into Howard County. However, the updated noise analysis demonstrates that there is no increase in noise within Howard County when comparing the Proposed Action and No Action Alternative contours. See Final EA and Section 4(f) Determination for details. | No change. |
| 31 | Howard County Office of Law | 3/9/18 | Noise Compatible Land Use | Header: The Draft EA Land Use Analysis is Insufficient NEPA regulations require discussion of inconsistency with existing plans. 40 CFR 1506.2. But the Draft EA does not even mention that FAA has abandoned the Part 150 planning process. Draft EA 5-26, 5-30; see also Exhibit E. MAA cannot continue expansion plans while ignoring the fact that land use planning around the airport has been totally upended and failing to include Howard County in its land use analysis. | The Part 150 Noise Compatibility Plan for BWI Marshall has no bearing on the noise analysis completed for the BWI Marshall EA, as the EA used actual radar tracks to define the 2016 existing conditions. Because the Proposed Action does not influence runway use, track location or use, the only difference in the noise contours is in the area of the proposed Airline Maintenance Facility where engine maintenance run-up operations are expected to be conducted. This change in noise occurs within areas that are compatible with the Proposed Action (i.e. commercial and manufacturing and production) within Anne Arundel County. The Proposed Action is not and does not | No change. |

³ MAA's failure to pursue a NAP is subject to a Writ of Mandamus. MAA has admitted that Howard County lies with 65dB DNL noise contours. See, e.g. Draft EA Table 4.12.2.

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|---|-----------------------------|----------------------------|----------------------|---|---|---------------------------|-----------|----------------------------|----------------|-------|---------------|--|--|------|------|------|---------------------------------------|----|---------|---------|-------|---|---|---|--------|--------|---|---|---|---|-----------------|-----------------------|--------|---------|-----|------|----|--------|--------|----|----|----|--|-------------------|---------|--------|----------------------|-----|------|----|-----------|--------|----------------------|-----|------|----|------------|
| | | | | | cause any inconsistency with the Part 150 Noise Compatibility Plan, which could be updated in the future. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 32 | Howard County Office of Law | 3/9/18 | General | <p>Header: Other Draft EA Deficiencies There are several other ways in which the Draft EA fails to meet statutory requirements. The Draft EA must be based on valid data. It must also include information sufficient to inform the general public of the impacts that will be imposed on them. Because the significant flight procedure changes are not addressed in the EA, the analysis of multiple environmental impacts fails.</p> | The Draft EA was developed based on reasonable planning data as detailed within the technical appendices of the document. The details provided within the main document and technical appendices provide adequate information for the public and resource agencies to validate significance determinations included in the Draft EA. The Draft EA included a sample of flight tracks representative of the air traffic procedures in place for the year 2016. Similarly, the Proposed Action and No Action Alternative noise exposure contours for both 2020 and 2025 include use of the air traffic procedures in place through June 2016. Both TERPZ 5 and TERPZ 6, related to departures off of Runway 28 and 15R were modeled in the Existing Condition, and TERPZ 6 was modeled in the future No Action and Proposed Action Alternatives. Use of projected noise contours for 2020 and 2025 is the required method to analyze potential impacts associated with the Proposed Action. | No change. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 33 | Howard County Office of Law | 3/9/18 | Air Quality, Climate | <p>Header: Other Draft EA Deficiencies The air quality and climate change analysis did not take into consideration the dramatic flight procedure changes imposed by FAA, which has resulted in significant air quality impacts. Incredibly, there was no air quality monitoring conducted in Howard County. Draft EA Table 4.2.7. This is totally unacceptable, particularly as Howard County is in a NAAQS non-attainment area and it receives the vast majority of departure traffic from BWI and a substantial amount of arrival traffic, all of which are now occurring at lower altitudes, which means less geographic dispersion of pollutants and pollutant precursors and thus greater impacts on Howard County citizens, including school children. Because the aircraft emissions data was based on the 2014 ANZ Update, it does not incorporate any of the considerable changes that have taken place since 2015. Draft EA Appendix G, 1-1. These changes include, among other things, increased thrust for low altitude turns. Increased thrust means increased emissions. The climate and GHG analysis also failed to consider these increased emissions. There is actually little climate analysis at all, with MAA apparently relying on the fact that there are no airport-related federal standards for GHG emissions. Draft EA 5-13. NEPA requires more. The Draft EA's failure to address all this means that a full EIS must be performed.</p> | <ul style="list-style-type: none"> The air quality monitoring data provided in Table 4.2.7 are obtained from the U.S. Environmental Protection Agency (EPA) and Maryland Department of the Environment (MDE). These data are collected as part of the ongoing and in-place air monitoring station network of the Greater-Baltimore area. In other words, these existing data published and collected by the U.S. EPA and MDE provided a means for describing current air quality conditions in the region. There is one air monitoring station located in Howard County, located approximately 9.8 miles southwest of BWI Marshall Airport. As shown, these values are within the NAAQS. <p>Air Monitoring Data from Howard County Monitoring Station</p> <table border="1"> <thead> <tr> <th rowspan="2">Site Name, Address and ID</th> <th rowspan="2">Pollutant</th> <th rowspan="2">Primary/Secondary Standard</th> <th rowspan="2">Averaging Time</th> <th rowspan="2">NAAQS</th> <th colspan="3">Year & Values</th> </tr> <tr> <th>2014</th> <th>2015</th> <th>2016</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Howard County Near Road Interstate 95</td> <td rowspan="2">CO</td> <td rowspan="2">Primary</td> <td>8 hours</td> <td>9 ppm</td> <td>1</td> <td>1</td> <td>1</td> </tr> <tr> <td>1 hour</td> <td>35 ppm</td> <td>2</td> <td>1</td> <td>1</td> </tr> <tr> <td rowspan="2">South Welcome Center North Laurel, MD 24-027-0006 (9.8 miles southwest of BWI Marshall Airport)</td> <td rowspan="2">NO₂</td> <td rowspan="2">Primary and Secondary</td> <td>1 hour</td> <td>100 ppb</td> <td>51*</td> <td>45**</td> <td>51</td> </tr> <tr> <td>1 year</td> <td>53 ppb</td> <td>18</td> <td>18</td> <td>17</td> </tr> <tr> <td rowspan="2"></td> <td rowspan="2">PM_{2.5}</td> <td rowspan="2">Primary</td> <td>1 year</td> <td>12 µg/m³</td> <td>12*</td> <td>11**</td> <td>10</td> </tr> <tr> <td>Secondary</td> <td>1 year</td> <td>15 µg/m³</td> <td>12*</td> <td>11**</td> <td>10</td> </tr> </tbody> </table> | Site Name, Address and ID | Pollutant | Primary/Secondary Standard | Averaging Time | NAAQS | Year & Values | | | 2014 | 2015 | 2016 | Howard County Near Road Interstate 95 | CO | Primary | 8 hours | 9 ppm | 1 | 1 | 1 | 1 hour | 35 ppm | 2 | 1 | 1 | South Welcome Center North Laurel, MD 24-027-0006 (9.8 miles southwest of BWI Marshall Airport) | NO ₂ | Primary and Secondary | 1 hour | 100 ppb | 51* | 45** | 51 | 1 year | 53 ppb | 18 | 18 | 17 | | PM _{2.5} | Primary | 1 year | 12 µg/m ³ | 12* | 11** | 10 | Secondary | 1 year | 15 µg/m ³ | 12* | 11** | 10 | No change. |
| Site Name, Address and ID | Pollutant | Primary/Secondary Standard | Averaging Time | NAAQS | Year & Values | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | 2014 | 2015 | 2016 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Howard County Near Road Interstate 95 | CO | Primary | 8 hours | 9 ppm | 1 | 1 | 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | 1 hour | 35 ppm | 2 | 1 | 1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| South Welcome Center North Laurel, MD 24-027-0006 (9.8 miles southwest of BWI Marshall Airport) | NO ₂ | Primary and Secondary | 1 hour | 100 ppb | 51* | 45** | 51 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | 1 year | 53 ppb | 18 | 18 | 17 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | PM _{2.5} | Primary | 1 year | 12 µg/m ³ | 12* | 11** | 10 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | Secondary | 1 year | 15 µg/m ³ | 12* | 11** | 10 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | | | | | | | Primary and Secondary | 24 hours | 35 µg/m ³ | 21* | 22** | 22 | |
| | | | | | <p>Notes: ppm: parts per million; ppb: parts per billion; µg/m³: micrograms per meters cubed.</p> <p>NAAQS – National Ambient Air Quality Standards CO – carbon monoxide, NO₂ – Nitrogen dioxide, PM_{2.5} – particulate matter less than or equal to 2.5 microns Air Data Downloaded at https://www.epa.gov/outdoor-air-quality-data/interactive-map-air-quality-monitors in March 2018. *Data limited to a single year. ** Data limited to two years.</p> <p>The air quality section included an emissions inventory using FAA’s AEDT model, replicating operations that were modeled for the noise analysis. The model addresses climb profiles and thrust according to the stage length (distance to the destination airport). The commenter incorrectly states that the operations modeled are based on the 2014 ANZ. As with the noise analysis, the air quality analysis was based on 2016 runway and track use, and 2016 operations for existing conditions inclusive of the TERPZ 5 and TERPZ 6 procedures. The future conditions were based on operational levels projected for 2020 and 2025 also inclusive of the TERPZ 6 procedure. This analysis accounts for total airport-related emissions on an annual basis and is expressed in tons/year. Based on the results, it is estimated that there are minimal (<1 percent) changes in total emissions between the No Action and Proposed Action Alternatives. This outcome can be translated into a corresponding minimal change in ground level air pollutant concentrations and impacts.</p> <p>Airport-related GHG emissions were estimated for current (2016) and future years (2020 and 2025) with and without the proposed projects at BWI Marshall. The results are provided in Table 4.4.1 (Current), 5.3.1 (Operational Emissions) and 5.3.2. (Construction Emissions). As shown, there is an estimated increase in CO₂e emissions from current to future years, but no expected changes in CO₂e emissions between the future No Action and Proposed Action Alternatives. However, these emissions associated with BWI Marshall Airport remain a very small fraction of State, National and World emissions. Insofar as there are no criteria or thresholds that apply to airport GHG emissions, it is important to note that the proposed projects will not cause an increase in CO₂e emissions when compared to the No Action Alternative.</p> | | | | | | | | |
| 34 | Howard County Office of Law | 3/9/18 | Noise, Air Quality, Tree Removal | <p>Header: Other Draft EA Deficiencies The Draft EA proposes significant tree removal but fails to consider how this will affect air quality, climate, or noise. Draft EA 3-10, Figure 3.2.8. The important noise buffering and air quality impacts associated with tree removal should be considered in a full EIS.</p> | <p>The Final EA includes a discussion of the potential noise impacts associated with tree removal. Proposed obstruction removal off the Runway 15L end under the ALP Alternative includes removal of 1,147 individual trees on private properties, as well as the selective clearing of 384 trees on a parcel of Airport-owned property adjacent to the residential properties. Vegetation is often considered a noise barrier to reduce the noise associated with airport and roadway traffic. It should be noted that vegetation as</p> | | | | | | | | No change. |

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| | | | | | <p>a noise barrier generally affects surface noise and not airborne noise from aircraft landing or taking off.⁴</p> <p>2020 UPDATE: The Final EA does not include a discussion of the potential noise impacts associated with tree removal. However, additional responses to public comment are provided in the Final EA and Section 4(f) Determination in <i>Appendix N, Attachments 3 through 6.</i></p> <p>Studies vary, but it has been shown that dense vegetation can be useful in reducing surface noise. However, the use of vegetation as a surface noise barrier varies greatly dependent on variables such as tree species and heights, and branch and leaf densities.⁵ The majority of trees within and nearby the Airport are mixed deciduous species, with smaller areas of pine species. The forest stands and specimen trees identified on private properties off the Runway 15L end consist almost entirely of deciduous species: poplars, oaks, and maples. Deciduous tree species lose their leaves seasonally, and therefore are not ideal species to be used for noise attenuation. For this reason alone, the selective tree clearing off the Runway 15L end would not be expected to impact noise attenuation in the residential areas. Additionally, the use of vegetation as a noise barrier is often psychological, in that removing a noise source from view will reduce annoyance to noise whether or not the noise actually remains.⁶ While the selective tree clearing would reduce the density of forest stands in some areas, the existing visual vegetation barriers would remain in place between residential properties and the Airport.</p> <p>The Sponsor's Preferred Alternative includes removal of 1,102 individual trees on private properties off the Runway 15L end, as well as the selective clearing of 384 trees on a parcel of Airport owned property adjacent to the residential properties. The proposed obstruction removal is similar to the ALP Alternative with the exception of 45 individual trees that will remain due to a 2016 tree survey that determined they were no longer considered to be obstructions. The proposed tree removal is comparable to that proposed in the ALP Alternative, and thus the potential impacts on noise attenuation would be the same.</p> <p>The tree removal included as part of the Proposed Action includes select trees on private properties that must be removed to address safety concerns and the tree removal included on MAA property will be mitigated appropriately through a forest management plan to ensure that trees that are allowed to remain or that are planted in replacement for trees that are deemed to be obstructions are appropriate for the area. The removal of the isolated trees on private property will have minimal impact to local air quality.</p> | |
| 35 | Howard County Office of Law | 3/9/18 | Historic Resources | <p>Header: Historical Resource Impacts and Section 4(f) The Draft EA seeks to address FAA's responsibilities under NHPA Section 106 in sections 4.9 and 5.8, but the analysis is inadequate. This is partly due to the fact</p> | <p>As discussed above, the noise contours were generated based on accurate and representative data that reflects FAA's most recent airspace changes. The noise analysis for the Proposed Action shows noise increases only around the proposed</p> | No change. |

⁴ Air Transport Research Institute, Airport Noise, February 13, 2012, <https://atrisa.wordpress.com/tag/noise-barriers/>

⁵ VDOT, Highway Noise Reduction Experiment, Appropriation Act Item 442 C. (2007), Executive Summary, December 2008, http://www.virginiadot.org/projects/resources/4_09_highway_noise_final_report.pdf

⁶ USDOT FHWA, Noise, The Audible Landscape: A Manual for Highway Noise and Land Use, 4.4C) Plantings, https://www.fhwa.dot.gov/ENVIRONMENT/noise/noise_compatible_planning/federal_approach/audible_landscape/al04.cfm

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| | | | | that the noise exposure maps are wrong. It is also due to the fact that MAA has used an area of potential effects ("APE") that does not meet statutory criteria. The APE is supposed to be the "geographic area within which an undertaking may directly or indirectly cause alterations in the character of use of historic properties." Draft EA 4-33. But MAA used an APE with the same boundaries as the Study Area. This is inadequate because of the significant adverse effects aircraft noise has on historic properties outside of MAA's designated APE. The APE should extend at least through accurate 65dB DNL noise contours and possibly further depending on the historic properties involved. | <p>Airline Maintenance Facility due to engine maintenance run-ups. This area is the only notable change in the noise contours when compared to the No Action Alternative. This change in noise occurs within areas that are compatible with the Proposed Action (i.e. commercial and manufacturing and production). Therefore, noise contours were not taken into consideration for development of the Indirect APE. The FAA's Metroplex OAPM airspace changes are not part of the Proposed Action evaluated in this EA. The MAA initiated Section 106 (NHPA) consultation with the Maryland Historical Trust, State Historic Preservation Office on 6/26/2016 and received their concurrence on 7/27/2016. Additionally, the APE was coordinated with MHT and their concurrence received on 3/8/2017. Furthermore, all other studies and evaluations were coordinated with the MHT for their review and comment, including their formal review of the Draft EA document.</p> <p>Criteria to determine Adverse Effect on Historic Properties are listed in 36 CFR § 800.5(a)(1). Because the proposed projects are not anticipated to introduce a "visual, atmospheric or audible element that diminishes the integrity" of any historic properties, of the FAA and MHT concluded that there would be no adverse effect associated with the proposed undertaking. Additionally, in a letter dated 2/6/2018, MHT indicated that they "found this project to be consistent with their plans, programs, and objectives."</p> | |
| 36 | Howard County Office of Law | 3/9/18 | | Header: Historical Resource Impacts and Section 4(f) The impact of noise on the character and settings of historic properties constitutes an adverse impact that MAA must study further. Attached as Exhibit I is a sample of the many historic properties in Howard County that are potentially threatened by the Proposed Action. None of these properties is discussed, or even mentioned in the Draft EA. | See Response #28. There are no Howard County Historic Sites located within the APE; nothing about the Proposed Action would cause any direct or indirect effects on these Sites. The MAA initiated Section 106 (NHPA) consultation with the Maryland Historical Trust, State Historic Preservation Office on 6/26/2016 and received their concurrence on 7/27/2016. Additionally, the APE was coordinated with MHT and their concurrence received on 3/8/2017. Lastly, all other studies and evaluations were coordinated with the MHT for their review and comment, including their formal review of the Draft BWI Marshall EA document. | No change. |
| 37 | Howard County Office of Law | 3/9/18 | Historic Resources | Header: Historical Resource Impacts and Section 4(f) The Section 4(f) analysis is similarly impaired as no Howard County properties were considered, despite the fact that there are many publicly owned lands, including parks and historic sites of significance that will be constructively used due to the noise and visual impact of the Proposed Action. | There are no noise impacts associated with the Proposed Action in Howard County and there would be no constructive use due to noise or visual impacts for any properties, historic or otherwise, in Howard County. | No change. |
| 38 | Howard County Office of Law | 3/9/18 | Alternatives | Header: The Alternatives Analysis is Inadequate The alternatives analysis is generally inadequate because of the contradictory nature of the claims made by MAA. MAA claims that the Proposed Action is needed to increase operations and efficiency, reduce runway occupancy times, and to meet anticipated demand. But MAA claims both that the several No Action alternatives will not address the need to expand operations, but will result in the same level of air traffic. This is clearly an arbitrary conclusion. | <p>The commenter incorrectly states the need for the Proposed Action. The Proposed Action is needed to: meet FAA design standards; accommodate existing and anticipated demand; improve customer service; and provide NEPA review of previously acquired property. The Proposed Action is not intended to and does not induce (increase) operations. Six improvements are listed as intended to accommodate existing and anticipated demand safely and efficiently. It should be noted, however, that none of the improvements will materially affect BWI Marshall Airport's ability to accommodate overall forecast aircraft operations demand. For example:</p> <ul style="list-style-type: none"> - The <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport's ability to deice aircraft so they can take off with less delay. Airlines, however, do not schedule flights assuming adverse weather. If the Deicing Pad is not built, the same number of aircraft takeoffs will occur, but they will be delayed and some daytime operations may become nighttime operations. | No change. |

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| | | | | | <ul style="list-style-type: none"> - The <i>General Aviation Facility Improvements</i> consist of additional hangars and automobile parking. These are primarily service improvements, and if the projects were not built, the prospective hangar occupants would park their aircraft on the apron and their automobiles elsewhere at the Airport during peak periods. - Since Northrop Grumman performs very few aircraft operations at BWI Marshall Airport, the expanded <i>Northrop Grumman Hangar</i> will not materially increase the number of operations that can be accommodated at the Airport. - The <i>New Airline Maintenance Facility</i> will not materially affect the number of operations accommodated at BWI Marshall Airport. Airlines incorporate maintenance into their regular airline schedules, thereby avoiding the cost of additional flights solely for maintenance. If the facility is not built, some aircraft maintenance will occur elsewhere but the airline schedules will not be changed. - The <i>Building 113 Demolition</i> will not increase capacity. The demolition of the building will make airfield pavement near the cargo area available for use. - The <i>Deicing Chemical Storage Project</i>, like the <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport's ability to deice aircraft efficiently and reduce delay, but will not affect airline schedules or BWI Marshall Airport's ability to accommodate total airline operations. <p>2020 UPDATE: The Northrop Grumman project was determined to be outside the development timeframe for projects considered in the EA, so it was eliminated from the Proposed Action in the Updated Draft EA and Section 4(f) Determination. This project would be reviewed in a future NEPA document if the need arises.</p> | |
| 39 | Howard County Office of Law | 3/9/18 | Alternatives | <p>Header: The Alternatives Analysis is Inadequate This conclusion is further undermined because the Proposed Action is not accurately evaluated based on the flight procedure changes that have taken place. Accordingly, the impacts of the Proposed Action are underestimated, while the No Action impacts are over estimated. One example of this is Draft EA figure K-7, which purports to show that the noise contours under the Proposed Action and No Action alternatives would be virtually the same. This obviously cannot be true given the 10 degree low altitude right turn Runway 28 departures make, which was not adequately analyzed in the Draft EA. The noise contours rely on old data, which is demonstrated by the fact that the Draft EA No Action and Proposed Action contours would be the same. This shows that the Existing Noise Contours are based on unreliable information. Otherwise, they would show a deviation to the north. A full EIS with a genuine alternatives analysis must be conducted.</p> | <p>The BWI Marshall EA models noise as generated by both aircraft and maintenance operations as indicated in Section 4.12 and Appendix K. Since noise model data is based on actual operations, runway use and flight track location and use, the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial— the noise model used for the Draft EA models how aircraft actually fly. The assertion that the vast majority of noise data underlying the EA is from before 2015 is incorrect. Section 4.12.1 and Appendix K provide information about noise model input data used for the development of the Existing Conditions. Aircraft operations were based on actual 2016 EnvironmentalVue data adjusted to match FAA Terminal Area Forecast data. Runway utilization was calculated from EnvironmentalVue radar data from May 2015 to August 2015, and December 2015 to April 2016 with days of extended runway closures removed. Flight track location and utilization were based on a five-week EnvironmentalVue radar data sample. Figures 1 and 2 illustrate the modeled tracks used for departures off of Runway 28 and 15R, respectively, in the noise analysis for both 2020 and 2025 No Action and Proposed Action Alternatives, highlighting the shift in track location associated with the TERPZ 6 procedure. Tables 1 and 2 provide the change in track use between 2016 (annualized track use), and 2020 and 2025 illustrating the use of TERPZ 6 beginning in June of 2016, clearly indicating that the future use of the TERPZ 6 procedure is included in the noise analysis. The alternatives analysis completed within the BWI Marshall EA is appropriate for the Proposed Action. In accordance with 1050.1F, "An EA may limit the range of alternatives to the proposed action and no action when there are no unresolved</p> | No change. |

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| | | | | | conflicts concerning alternative uses of available resources. Alternatives are to be considered to the degree commensurate with the nature of the proposed action and agency experience with the environmental issues involved." Alternatives were appropriately considered where natural resources (i.e. biological and water resources) would be potentially impacted. | |
| 40 | Howard County Office of Law | 3/9/18 | General | Header: Conclusion Relying on the Draft EA for compliance with NEPA, NHPA, and Section 4(f) would be not only be arbitrary and capricious, it would also be incredibly unfair to the citizens of Howard County. | The purpose of the EA for the <i>Proposed Improvements 2016-2020 at Baltimore/Washington International Thurgood Marshall Airport</i> is to allow the FAA to meet the requirements of this order [FAA Order 5050.4B] and NEPA as the basis for recommending the issuance of a Finding of No Significant Impact (FONSI) or the preparation of an Environmental Impact Statement (EIS)." The FAA will make the decision as to perform an EIS or not, based in part on its assessment of whether the environmental impacts associated with the Proposed Action (e.g., wetlands and forest impacts) in the BWI Marshall EA are significant with the application of appropriate mitigation measures as agreed to by the responsible resource agencies (i.e., U.S. Army Corps of Engineers, Maryland Department of Environment and Maryland Department of Natural Resources). FAA Order 5050.4B identifies all "special purpose laws" to be taken into consideration in the EA, including, but not limited to, the NHPA and 49 USC Subchapter I, Section 303 c (formerly Section 4(f) of the Department of Transportation Act). | No change. |
| 41 | Howard County Office of Law | 3/9/18 | Noise | Header: Conclusion The failure of the Draft EA to adequately consider the significant flight procedure changes that have occurred since 2015 means that it is legally insufficient. For the same reasons, the Draft EA does not satisfy the requirements of the Maryland Environmental Policy Act. NAT. RES. § 1-301, <i>et seq.</i> A full EIS must be prepared that adequately addresses the impacts and effects associated with the Proposed Action. | The existing conditions noise exposure contour was developed using, among other sources, actual flight track data from 2015 and 2016 as stated in Appendix K. The representative sample of flight tracks include use of the air traffic procedures in place at the time. Similarly, the Proposed Action and No Action Alternative noise exposure contours for both 2020 and 2025 include use of the air traffic procedures in place through June 2016. The Draft EA was provided to the Maryland Department of Planning and reviewed through Maryland's Clearinghouse Review Process with no state agencies indicating opposition to the proposed improvements. The FAA makes the decision as to perform an EIS or not, based on whether the environmental impacts associated with the Proposed Action (e.g., wetlands and forest impacts) in the BWI Marshall EA are significant with the application of appropriate mitigation measures as agreed to by the responsible resource agencies (i.e., U.S. Army Corps of Engineers, Maryland Department of Environment and Maryland Department of Natural Resources). | No change. |
| PUBLIC COMMENTS | | | | | | |
| 1 | Drew Roth | 01/6/18 | Noise | The noise appendix is very relevant. While the intro states that this does not affect flight paths and is independent of Nextgen, the proposed program most definitely increases airport capacity and therefore increases noise. We should consider asking this EA to be coupled to the NextGen EA, and that a full environmental impact statement be performed for the combined effort due to the noise increase. | None of the proposed improvements will materially affect BWI Marshall Airport's ability to accommodate overall aircraft operations demand. The Proposed Action defines improvements to enhance the safety and efficiency of the levels of operations and passengers that are anticipated to use BWI Marshall Airport through 2020 regardless of whether the improvements are made. The 2011 Master Plan indicated that BWI Marshall Airport's current airfield facilities can accommodate up to 360,000 aircraft operations annually. The most recent forecast for BWI Marshall Airport, the FAA's Terminal Area Forecast (TAF) projects that BWI Marshall Airport will not reach the 360,000 operations level until 2038. Therefore, | No change. |

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| | | | | | <p>current airfield facilities are more than adequate to accommodate aircraft operations, albeit at reduced efficiency and service levels, during the 2016-2020 period.</p> <p>Most of the projects in the Proposed Action are intended to meet FAA standards, enhance airfield safety and efficiency, and improve customer service. Six projects are listed as intended to accommodate existing and anticipated demand. For example:</p> <ul style="list-style-type: none"> - The <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport's ability to deice aircraft so they can take off with less delay. Airlines, however, do not schedule flights assuming adverse weather. If the Deicing Pad is not built, the same number of aircraft takeoffs will occur, but they will be delayed and some daytime operations may become nighttime operations. - The <i>General Aviation Facility Improvements</i> consist of additional hangars and automobile parking. These are primarily service improvements, and if the projects were not built the prospective hangar occupants would have to park their aircraft on the apron and their automobiles elsewhere at the Airport during peak periods. - Since Northrup Grumman performs very few aircraft operations at BWI Marshall Airport, the expanded <i>Northrup Grumman Hangar</i> will not materially increase the number of operations that can be accommodated at the Airport. - The <i>New Airline Maintenance Facility</i> will not materially affect the number of operations accommodated at BWI Marshall Airport. Airlines incorporate maintenance into their regular airline schedules, thereby avoiding the cost of additional flights flown solely for maintenance. If the facility is not built, some aircraft maintenance will occur elsewhere but the airline schedules will not be changed. - The <i>Building 113 Demolition</i> will not increase capacity. The demolition of the building will make airfield pavement near the cargo area available for use. - The <i>Deicing Chemical Storage project</i>, like the <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport's ability to deice aircraft efficiently and reduce delay but will not affect airline schedules or BWI Marshall Airport's ability to accommodate total airline operations. <p>2020 UPDATE: The Northrop Grumman project was determined to be outside the development timeframe for projects considered in the EA, so it was eliminated from the Proposed Action in the Updated Draft EA and Section 4(f) Determination. This project would be reviewed in a future NEPA document if the need arises.</p> <p>Lastly, it is important to note, airports accommodate demand, they do not induce demand. Passengers fly because they want or need to get from point A to point B for business, personal, or recreational reasons. They do not fly because their local airport has built a new runway or other capacity enhancing facility. Likewise, airlines fly their aircraft because they can fill them with passengers who are willing to pay to fly from Point A to Point B. If the passengers are not there, the airlines will move aircraft to serve a different route. There are many airports throughout the country that have</p> | |

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| | | | | | <p>underused runways and terminals; this excess capacity has not induced demand at those airports.</p> <p>The FAA's decision to implement Performance Based Navigation flight procedures is unrelated to the proposed improvements included in this Draft EA and Draft Section 4(f) Determination and therefore is not discussed in detail. The proposed improvements included in this Draft EA and Draft Section 4(f) Determination and anticipated environmental impacts and concerns do not meet the thresholds or criteria that would require an Environmental Impact Statement be prepared.</p> | |
| 2 | Barbara Deckert | 01/23/18 | Noise | <p>I object to the entire Draft EA because the existing and proposed Noise Zone contours as established by this EA are inaccurate and do not reflect the current extent of noise pollution and community complaints from the neighborhoods surrounding BWI Airport.</p> | <p>The existing conditions noise exposure contour was developed using, among other sources, actual flight track data as stated in Appendix K. The representative sample of flight tracks include use of the air traffic procedures in place at the time, including FAA's NextGen flight procedures. Similarly, the Proposed Action and No Action noise exposure contours for both 2020 and 2025 include use of the air traffic procedures in place through June 2016, capturing all the FAA's implemented NextGen flight procedures at BWI Marshall.</p> <p>The increases in noise complaints are not tied to the relatively modest changes in the noise contours because the vast majority of complaints come from areas beyond the DNL 65 dB noise contour of BWI. Thus, the complaints do not provide any information about the accuracy of the noise contours prepared according to FAA requirements and standards.</p> | No change. |
| 3 | Barbara Deckert | 01/23/18 | Noise | <p><u>Noise Zone Maps Contradict Noise Complaints, by Location and Numbers</u></p> <p>At a glance, the differences in geographic area, among various MAA Noise Exposure Maps from 2003 through 2016 and the proposed 2020 Noise Zone contours in this Draft EA are minuscule, with barely an eighth or quarter of a mile variation here and there.</p> <p>Nonetheless, complaints about airport noise have skyrocketed since the implementation of NextGen. In 2013 there were 266 complaints, about 22.16 per month. In 2014 there were 771 complaints, or about 64.25¹ a month. NextGen was fully implemented in Fall of 2015. As of October 2017, BWI was receiving about 2,000 noise complaints a month². That's an astronomical 8,925% increase in noise complaints as compared to 2013 and a 3,013% increase over 2014.</p> <p>Moreover, as documented on the MAA's Noise Complaint Form, the addresses cited by complainants in "Contact Information" indicate that noise pollution has become a community concern in what is now about a 20-25 mile radius around BWI³.</p> | <p>The evaluation of potential noise impact due to a proposed action is completed using predicted aircraft operations with and without the proposed action and does not incorporate noise complaint data.</p> | No change. |
| 4 | Barbara Deckert | 01/23/18 | Noise | <p><u>DNL is an Inadequate Measure of Human Suffering, Especially at BWI</u></p> <p>At the January 16, 2018 BWI Roundtable meeting, a young woman testified, with tears running down her face, that she was recently hospitalized for five days and was in danger of losing her job because of sleep deprivation caused by aircraft noise from BWI; she does not live in a Noise Zone.</p> | <p>The FAA is the federal agency responsible for evaluation under the National Environmental Policy Act of the potential environmental impacts associated with of the Proposed Action reviewed in the BWI Marshall EA. MDOT MAA was required to prepare the Draft EA following FAA Orders 1050.1F <i>Environmental Impacts: Policies and Procedures</i> and 5050.4B <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i> and associated desk references to comply with the Council on Environmental Quality Implementing regulations 40 Code of Federal</p> | No change. |

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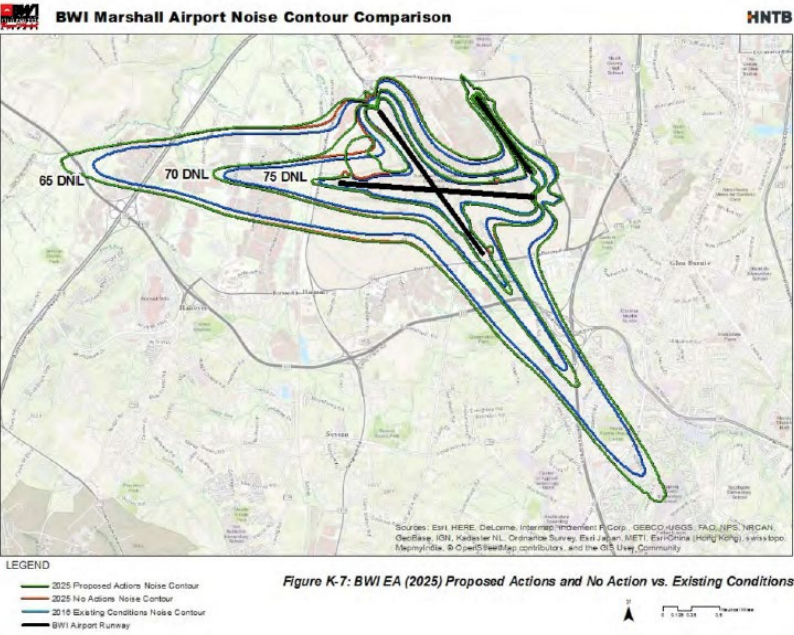
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| | | | | <p>Much ado is made of DNL as an ideal metric for measuring community annoyance in the Draft EA's <i>Appendix K Noise</i>. It makes a circular and therefore specious argument that a DNL of 65 dB is used by the FAA and other agencies, so it adequately gauges community sensitivities to noise. That's not good enough, as numerous scholarly studies have asserted.</p> <p>In the communities around BWI, DNL is decidedly not an accurate reflection of community annoyance. A review of data published in BWI's Quarterly Noise Reports and Supplemental Permanent Noise Monitoring Data for 2012-2017 documents otherwise. There are very few incidences of DNL numbers over 65 caused by noise from aircraft operations, as recorded and calculated from all working permanent noise monitors, counted here by quarters:</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Number Working Monitors</th> <th>Total Number Quarterly Noise Measurements posted</th> <th>Total Number DNL readings >65 (readings)</th> </tr> </thead> <tbody> <tr> <td>2012</td> <td>14</td> <td>52</td> <td>2 (74, 72)</td> </tr> <tr> <td>2013</td> <td>11</td> <td>40</td> <td>1 (67)</td> </tr> <tr> <td>2014</td> <td>10</td> <td>32</td> <td>2 (68, 67)</td> </tr> <tr> <td>2015</td> <td>7</td> <td>28</td> <td>2 (66, 74)</td> </tr> <tr> <td>2016</td> <td>7</td> <td>26</td> <td>1 (66)</td> </tr> <tr> <td>2017 (Q1/Q2/Q3)</td> <td>6/6/6</td> <td>6/12/18</td> <td>0</td> </tr> </tbody> </table> <p>How can that be? For 2017, through Q3, there are no DNL numbers over 65 posted in these reports for any of the remaining working permanent monitors. (In actuality, as of March 2017 there were only five out of an original 23 working permanent noise monitors, with one of those uncalibrated⁴.) Yet, BWI's neighbors are filing noise complaints at the rate of 2,000 a month. Obviously, DNL does not reflect community annoyance in the counties surrounding BWI.</p> <p>When a new permanent noise monitoring system is operational in the future, does the MAA expect the incidence of aircraft related noise levels over 65 DNL to increase, commensurate to the number and location of noise complaints? It should. Because of the MAA's malfeasance in failing to maintain a working noise monitoring system for over five years, as required by MD law, it has at present no idea where its real noise zones are now, much less where they will be in 2020, based on scientifically collected and analyzed noise data.</p> | Year | Number Working Monitors | Total Number Quarterly Noise Measurements posted | Total Number DNL readings >65 (readings) | 2012 | 14 | 52 | 2 (74, 72) | 2013 | 11 | 40 | 1 (67) | 2014 | 10 | 32 | 2 (68, 67) | 2015 | 7 | 28 | 2 (66, 74) | 2016 | 7 | 26 | 1 (66) | 2017 (Q1/Q2/Q3) | 6/6/6 | 6/12/18 | 0 | <p>Regulations 1500-1508. These FAA Orders detail the use of the DNL metric to determine potential significance for noise impacts. DNL is the metric FAA uses to determine significant noise impacts. The commenter does not identify scholarly studies that have identified a better metric than the DNL metric.</p> <p>The noise analysis contained in the BWI Marshall EA compares the future noise exposure expected with and without the Proposed Action to determine the potential for a significant impact, it does not incorporate noise monitor results nor complaints. The modeled noise contours provide a valid depiction of the noise levels expected around the Airport in 2020 and 2025 based on reasonable planning assumptions for fleet mix and runway and track use.</p> <p>Further, the readings of the monitors do not demonstrate a problem with the metric or DNL 65 dB threshold. Greater than 65 decibel readings are less common than they were in the past due to the phase out of the noisiest aircraft, starting with the phase out of Stage 2 aircraft in 2000 and noisier Stage 3 aircraft since then.</p> | |
| Year | Number Working Monitors | Total Number Quarterly Noise Measurements posted | Total Number DNL readings >65 (readings) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2012 | 14 | 52 | 2 (74, 72) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2013 | 11 | 40 | 1 (67) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2014 | 10 | 32 | 2 (68, 67) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2015 | 7 | 28 | 2 (66, 74) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2016 | 7 | 26 | 1 (66) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2017 (Q1/Q2/Q3) | 6/6/6 | 6/12/18 | 0 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Barbara Deckert | 01/23/18 | Noise | <p><u>Noise Modeling Software is Inadequate to Establish Noise Zones</u></p> <p><i>Appendix K Noise</i> summarizes the FAA's and MAA's use of noise modeling software (AEDT 2b) as a substitute for noise data to establish noise zones. It cites the use of stage length as a "surrogate for aircraft weight."</p> | <p>Noise contours and the Airport Noise Zone (ANZ) are developed using predictive modeling based on existing and forecast operations, as well as any new airport construction, if applicable. Noise contours are not developed using noise monitoring data. Further, it is not possible to use noise monitors to predict future noise contours. MDOT MAA is required to create an ANZ to control incompatible land development around BWI Marshall and a Noise Abatement Plan (NAP) to minimize the impact of aircraft noise on people living near the Airport. An ANZ and NAP were first established</p> | No change. | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Draft Environmental Assessment and Draft Section 4(f) Determination Proposed Improvements 2016-2020 at BWI Marshall Airport
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| | | | | <p>However, there is no information in this Draft EA on the accuracy or appropriateness of this modeling. Specifically, there is no information on whether stage lengths accurately reflect increasing trends in Passenger Load Factors. As pointed out in one of the letters of objection to the FONSI⁵, stage length calculations assume a 1970's standard of a 65% payload factor, which is inadequate for today's payloads. Since most flights now are at or near passenger capacity, those numbers may be far closer to 100%. Greater Take Off Weights require more thrust, which produces more noise for farther out from the airport. An increase of 10% in Take Off Weight causes a noise increase of 3-7 dB. The use of stage length underestimates calculated DNL's. Since Take Off Weights are calculated for every departure for the sake of safety, MAA should use that actual data to calculate DNL's and to establish its Noise Zones around BWI.</p> <p>Note that while the FAA's Order 1050.1F assumes the use of AEDT 2b noise modeling, it does allow the use of data from noise monitors and perhaps the use of Take Off Weights with prior written approval for more accurate noise analysis⁶.</p> | <p>for BWI Marshall in 1976; the most recent ANZ became effective December 22, 2014. The ANZ is determined by a composite of three noise contours: a base year contour, a five-year forecast, and a ten-year forecast. The largest of the three contours in any area around the Airport determines the Noise Zone, thereby offering protection within the largest of the existing or future noise exposure contours. MDOT MAA uses the ANZ to control incompatible land development around the Airport. MDOT MAA is required to update the ANZ every 5 years. Information about the ANZ can be found at http://www.maacommunityrelations.com/content/anznoiseupdate/bwianz.php and http://www.maacommunityrelations.com/content/anznoiseupdate/anz_update_2014.php.</p> <p>The AEDT is the FAA required model for noise impact evaluation for use in environmental documentation. The commenter contends that stage lengths do not accurately reflect increasing trends in Passenger Load Factors, that the use of stage length underestimates noise levels, and that actual take off weights should be used to develop noise exposure contours. The average weight calculation includes more than the passenger load factor. It also includes the weight of the aircraft, cargo, and fuel. Noise calculations are sensitive to many noise modeling input variables. It is not technically sound to look at one variable, e.g., takeoff weight, in isolation. For example, the noise model uses a conservative value of 100% thrust for departure procedures, although airlines typically do not use 100% power in takeoff. Thrust reduction at takeoff varies. Therefore, the 100% thrust assumption will result in higher noise calculations than may occur for particular departures. The existing condition stage length and load factors were obtained from the actual commercial flight statistics reported in the U.S. Department of Transportation database – Air Carrier Statistics. The future scenarios stage length and load factors were consistent with the airline's fleet replacement plans and FAA's forecast on growth factors. The goal of the noise analysis is to capture the average annual conditions at the airport, and the use of stage length is reasonable to model average conditions at BWI Marshall as shown in this Draft EA. The commenter references the methodology apparently used in the DC OAPM DEA, which is not relevant to the BWI Marshall EA because the DC OAPM DEA is not related to this BWI Marshall EA.</p> | |
| 6 | Barbara Deckert | 01/23/18 | Noise | <p>In addition, the <i>Appendix K Noise</i> makes no mention of the altitude problem that has plagued the communities surrounding BWI. Since the implementation of NextGen, aircraft are arriving and departing at much lower altitudes than previously, which causes greater perceived noise. These lower altitudes, in addition to increased payloads that require greater thrust, also have the effect of pushing noise zones farther out from the airport. If the noise models used by the MAA do not accurately include the newer, lower altitudes associated with changes from NextGen, then accurate altitude numbers should also be used to calculate DNL in order to establish Noise Zones around BWI.</p> <p>In its present form, it is not possible for the Draft EA to assist the FAA in evaluating potential environmental effects from proposed improvements. The MAA must use accurate noise data for the entire area around BWI that is now affected by NextGen related noise pollution, and/or modeling that incorporates accurately</p> | <p>FAA Order 1050.1F indicates that FAA must approve modifications to standard or default settings. Development of the BWI Marshall EA did incorporate approval for model substitution for aircraft types that were not in the AEDT model and for which there were no standard substitutions. FAA Order 1050.1F indicates that noise monitoring data is not required but may be included in a NEPA document, however "Noise monitoring data should not be used to calibrate the noise model." [FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i>, July 2015, p. B-2] Noise monitoring data may provide information for description of the affected environment but would not influence the comparison of future noise exposure between the Proposed Action and No Action alternatives. No temporary noise monitoring was undertaken for this EA and MDOT MAA regularly publishes the results of permanent noise monitors.</p> | No change. |

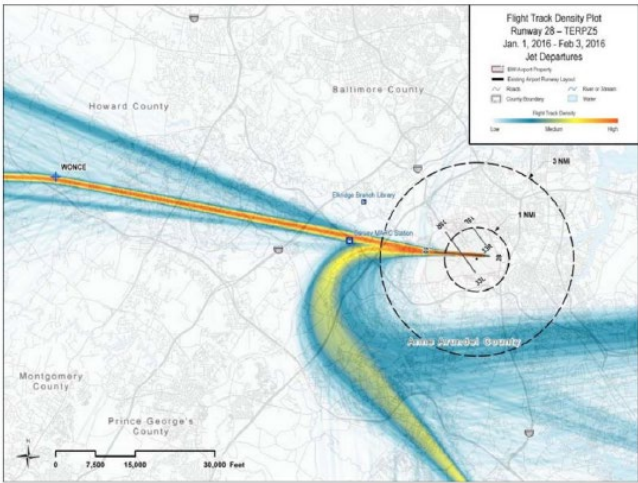
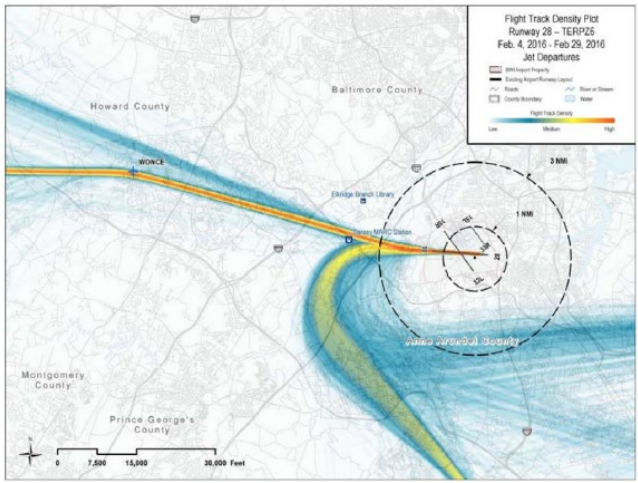
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| | | | | <p>calculated Take Off Weights plus actual aircraft altitudes to determine its real Noise Zone contours.</p> <p>May I remind the MAA that the 2013 Maryland Code TRANSPORTATION § 5-804 - Limits for Cumulative Noise Exposure ensures that Maryland citizens are protected from noise pollution:</p> <p style="padding-left: 40px;"><i>(a) . . . shall adopt regulations that establish limits for cumulative noise exposure for residential and other land uses on the basis of the noise sensitivity of a given land use.</i></p> <p style="padding-left: 40px;"><i>(b) In adopting limits under this section, the Executive Director shall:</i></p> <p style="padding-left: 80px;"><i>(1) Consider:</i></p> <p style="padding-left: 120px;"><i>(i) The general health and welfare;</i></p> <p style="padding-left: 120px;"><i>(ii) The rights of property owners;</i></p> <p style="padding-left: 120px;"><i>(iii) Accepted scientific and professional standards; and</i></p> <p style="padding-left: 120px;"><i>(iv) The recommendations of the Federal Aviation Administration and Environmental Protection Agency; and</i></p> <p style="padding-left: 80px;"><i>(2) Set the limits at the most restrictive level that, through the application of the best available technology at a reasonable cost and without impairing the safety of flight, is consistent with attaining the environmental noise standards adopted by the Department of Health and Mental Hygiene.</i></p> | <p>The BWI Marshall EA used the FAA's required noise model for evaluating potential noise impacts due to the Proposed Action. Radar data from 2016, which incorporated procedural changes implemented as part of the DC OAPM project, was used to develop modeled flight tracks, as well as flight track location and use and runway use. AEDT standard profiles were used, which have been compared to radar data and were found to reasonably represent altitudes flown by aircraft into and out of BWI Marshall.</p> <p>The Proposed Action reviewed in the BWI Marshall EA does not result in a significant increase in noise exposure. The additional engine maintenance operations do increase noise exposure compared to the No Action Alternative, however that increase in noise exposure remains over land that is considered compatible (by both federal guidelines and Maryland regulations) with the proposed action (i.e. commercial and manufacturing and production).</p> <p>Lastly, as described previously, MDOT MAA uses the ANZ to control incompatible land development around the Airport. MDOT MAA is required to update the ANZ every 5 years. The state of Maryland's regulations for considering land use compatibility with aviation generated noise are the same levels as the federal Part 150 thresholds.</p> | |
| 7 | Barbara Deckert | 01/23/18 | Noise | <p>This Draft EA should be rejected because its Noise Zone Contours do not accurately, by use of <i>best scientific and professional standards, in order to protect the health and welfare, and rights of property owners</i>, document the extent and location of noise pollution caused by BWI Airport.</p> <p><u>Citations from Barbara Deckert's comments:</u></p> <p>¹ Quarterly Noise Reports.</p> <p>² BWI Roundtable Minutes, October 2017.</p> <p>³ Map presented to BWI Roundtable by MAA in June, "Location of Complaints."</p> <p>⁴ March 14, 2017 memo from Michael Coleman, Field Technician at Harris, to Randy Dickinson, obtained by PIA request.</p> <p>⁵ Comments on DC OAPM DEA, Michael G. Kroposki, 7/18/2013</p> <p>⁶ Order 1050 1F, Appendix B. FAA Requirements for Assessing Impacts Related to Noise and Noise-Compatible Land use and Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303), p. B-2.</p> | <p>The noise contours developed as part of the BWI Marshall EA were developed using AEDT, FAA's required model and thus the civil aviation industry standard for noise contour development.</p> | No change. |
| 8 | Drew Roth | 1/30/18 | Noise | <p>I ask that the EPA deny a Finding of No Significant Impact (FONSI) for this proposal, and that the EPA perform a full Environmental Impact Study for the combined noise impacts on surrounding communities for both this proposal and the FAA DC Metroplex Nextgen program.</p> <p>1. The proposal increases noise in the vicinity of the airport. According to Appendix K-3.2.1 "On an Average Annual Day (AAD) basis, the total number of operations is projected to increase from 683.88 in 2016 to 737.31 in 2020 and 800.90 in 2025. Table K-3.1 summarizes the number of operations by operating</p> | <p>The Proposed Action defines improvements necessary to improve the safety and efficiency of operations and passengers that are anticipated to use BWI Marshall Airport through 2020 regardless of whether the proposed operations are undertaken. Both the Proposed Action and No Action noise contours were based on FAA's operation projection for 2020 and 2025. Operations are expected to increase between 2020 and 2025 with or without the Proposed Action. Fleet mixes in both the Proposed Action and No Action Alternatives were assumed to be identical as projects included in this Draft EA are needed to meet current FAA design standards and enhance airfield safety and efficiency. They are not expected to increase operations nor change fleet mix as airports accommodate demand: they do not induce demand. Passengers fly because they want or need to get</p> | No change. |

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| | | | | <p>categories.” This increase in flights will necessarily increase noise in the communities surrounding the airport. This is reflected in Figure K7.</p>  <p>Figure K-7: BWI EA (2025) Proposed Actions and No Action vs. Existing Conditions</p> <p>Future Scenarios Noise Analysis K-3-15 Appendix K-3</p> <p>However, Figure K-7 shows the noise contour for the proposed action and the no action alternative to be nearly identical. This cannot be reconciled with the Statement of Purpose and Need, which clearly states “The Proposed Action includes those improvements required to accommodate the projected activity levels through 2020.”</p> <p>If the proposed action is required to accommodate projected activity levels, there should be a difference in the noise contour between the proposed action and the no action alternative.</p> | <p>from point A to point B for business, personal, or recreational reasons. They do not fly because their local airport has built a new runway or other capacity enhancing facility. Likewise, airlines fly their aircraft because they can fill them with passengers who are willing to pay to fly from Point A to Point B. If the passengers are not there, the airlines will move aircraft to serve a different route. There are many airports throughout the country that have underused runways and terminals; this excess capacity has not induced demand at those airports.</p> <p>Specific to BWI Marshall Airport, the 2011 Master Plan indicated that BWI Marshall Airport’s current airfield facilities can accommodate up to 360,000 aircraft operations annually. The most recent forecast for BWI Marshall Airport, the FAA’s Terminal Area Forecast (TAF) projects that BWI Marshall Airport will not reach the 360,000 operations level until 2038. Therefore, current airfield facilities are more than adequate to accommodate aircraft operations, albeit at reduced efficiency and service levels, during the 2016-2020 period.</p> <p>Most of the projects in the Proposed Action are intended to meet FAA standards, enhance airfield safety and efficiency, and improve customer service. Six projects are listed as intended to accommodate existing and anticipated demand. It should be noted, however, that none of the projects will materially affect BWI Marshall Airport’s ability to accommodate overall aircraft operations demand. For example:</p> <ul style="list-style-type: none"> - The <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport’s ability to deice aircraft so they can take off with less delay. Airlines, however, do not schedule flights assuming adverse weather. If the Deicing Pad is not built, the same number of aircraft takeoffs will occur, but they will be delayed and some daytime operations may become nighttime operations. - The <i>General Aviation Facility Improvements</i> consist of additional hangars and automobile parking. These are primarily service improvements, and if the projects were not built the prospective hangar occupants would have to park their aircraft on the apron and their automobiles elsewhere at the Airport during peak periods. - Since Northrup Grumman performs very few aircraft operations at BWI Marshall Airport, the expanded <i>Northrup Grumman Hangar</i> will not materially increase the number of operations that can be accommodated at the Airport. - The <i>New Airline Maintenance Facility</i> will not materially affect the number of operations accommodated at BWI Marshall Airport. Airlines incorporate maintenance into their regular airline schedules, thereby avoiding the cost of additional flights flown solely for maintenance. If the facility is not built, some aircraft maintenance will occur elsewhere but the airline schedules will not be changed. - The <i>Building 113 Demolition</i> will not increase capacity. The demolition of the building will make airfield pavement near the cargo area available for use. <p>The <i>Deicing Chemical Storage project</i>, like the <i>Runway 15R Deicing Pad</i> will increase BWI Marshall Airport’s ability to deice aircraft efficiently and reduce delay but will not</p> | |

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| | | | | | <p>affect airline schedules or BWI Marshall Airport's ability to accommodate total airline operations.</p> <p>2020 UPDATE: The Northrop Grumman project was determined to be outside the development timeframe for projects considered in the EA, so it was eliminated from the Proposed Action in the Updated Draft EA and Section 4(f) Determination. This project would be reviewed in a future NEPA document if the need arises.</p> | |
| 9 | Drew Roth | 1/30/18 | Noise | <p>2. The noise contours in Appendix K do not reflect the actual flight paths under Nextgen.</p> <p>Prior to Nextgen, departures from Runway 28 proceeded straight on a line with the runway.¹</p> <p>(¹ Presentation to FAA Roundtable July 2017 http://maacommunityrelations.com/_media/client/anznoiseupdate/2017/20170718_Roundtable_Presentation_HMMH.pdf)</p> <div data-bbox="1112 816 1728 872" data-label="Caption"> <p>Jet Departures, April 2014</p> </div> <div data-bbox="1112 897 1728 1360" data-label="Figure"> </div> <p>This pre-Nextgen flight path is consistent with the noise contours in the proposal. Specifically, note that the westernmost point of the noise contours are on a straight line from Runway 28. However, under the Nextgen TERPZ 5 and TERPZ 6 procedures, there is a right turn soon after departure.</p> | <p>Both TERPZ 5 and TERPZ 6 were modeled in the Existing Condition, No Action, and Proposed Action Alternatives, which result in the noise contours turning slightly to the north. Specifically, on February 4th, 2016, departure procedure TERPZ5 was changed to TERPZ6 by the FAA. This change affected jet departure flight tracks from Runway 15R making right turns to the west and northwest as well as Runway 28 making a slight right turn towards west and northwest. For future conditions, tracks reflective of the TERPZ6 procedure were applied to the noise analysis. Figure K-1, in Appendix K of the BWI Marshall EA illustrates the TERPZ flight tracks before and after the procedure change.</p> <p>Additionally, Appendix K provides a comparison of the BWI EA 2020 Proposed Action noise contours and the Part 150 Study 2019 noise contours, see specifically Figure K-8. The most significant increase is expected to occur to the northwest of the airport between Runway 10 and Runway 15R. Areas to the southeast of the airport along the Runway 15R/33L extended centerline are also expected to experience an increase of noise level. This comparison provides clear evidence that procedural changes brought about by FAA change to the TERPZ procedure were included in the noise analysis for the BWI Marshall EA.</p> | No change. |

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| | | | | <p style="text-align: center;">TERPZ5, Runway 28</p>  <p style="text-align: center;">Source: MAA, 2016</p> <p style="text-align: center;">'be better'</p> <p style="text-align: center;">TERPZ6, Runway 28</p>  <p style="text-align: center;">Source: MAA, 2016</p> <p style="text-align: center;">'be better'</p> <p>It appears that the noise contours in the subject EA are based on the pre-Nextgen flight patterns. If they were based on the current Nextgen flight patterns, one would expect the westernmost point of the noise contour to be to the north of a straight line from Runway 28. The difference is readily apparent if one compares the point at which the flight paths intersect MD 100.</p> | | |

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| 10 | Drew Roth | 1/30/18 | Noise | <p>3. The difference between the flight paths shown in this EA and in the DC Metroplex EA is significant.</p> <p>If the noise contours were aligned with the Nextgen flight patterns, the Oxford Square development of 1400 residences, Thomas Viaduct Middle School, and Hanover Hills Elementary School would be within the 65 DNL contour. If the Purpose and Need Statement for the subject EA is correct, and the proposal is required to meet anticipated demand, one would expect the noise contour to increase over these communities, resulting in an increased significant impact.</p> <p>Furthermore, the DC Metroplex EA clearly states there will be no significant impacts due to flight path changes under 3000 feet AGL. This EA received a FONSI based on this assertion. However, it is apparent that the rightward turn has created a significant impact on the Oxford Square residences, which are likely now within the 65 DNL contour, and where aircraft routinely fly directly overhead at an altitude of approximately 1200 feet AGL.</p> | <p>TERPZ 5 and TERPZ 6 were included in the noise model (see Figure K-1). Projects evaluated in the Draft EA are needed to meet current FAA design standards, enhance airfield safety and efficiency, and accommodate existing and anticipated demand. The implementation of the NextGen flight procedures and any associated revisions to noise contours are unrelated to the proposed improvements included in this Draft EA and Draft Section 4(f) Determination and therefore are not discussed in detail. Nonetheless, they are included in the noise modeling for both No Action and action alternatives.</p> <p>This Draft EA focuses on ground infrastructure improvements whereas the NextGen DC Metroplex EA focused on the flight path changes. The implementation of the NextGen flight procedures and any associated revisions to noise contours are unrelated to the proposed improvements included in this Draft EA and Draft Section 4(f) Determination. However, procedural changes implemented as part of the DC OAPM are incorporated into the noise analysis for all alternatives through the review of radar tracks actually flown by aircraft using the procedures. The noise analysis for the Proposed Action shows noise increases only around the proposed Airline Maintenance Facility due to engine maintenance run-ups, this area is the only notable change in the noise contours when compared to the No Action Alternative. This change in noise occurs within areas that are compatible with the proposed action (i.e. commercial and manufacturing and production).</p> | No change. |
| 11 | Drew Roth | 1/30/18 | Noise | <p>4. The Nextgen DC Metroplex program implementation has created significant public controversy, which will only be increased by the subject proposal.</p> <p>As a result of the DC Metroplex program at BWI</p> <ul style="list-style-type: none"> • Noise complaints to the MAA have skyrocketed. • The FAA has created a community Roundtable to respond to community complaints. • The FAA has received letters from the Governor of Maryland, and our Congressional Delegation demanding that they address the noise impacts on the surrounding communities. • Howard County, Maryland, has passed legislation authorizing legal action against the FAA, and has hired external counsel. • The Governor of Maryland has directed the Maryland State's Attorney to pursue legal action against the FAA, and the State's Attorney's office has hired external counsel. <p>The correspondence of the FAA Roundtable and local elective representatives is archived at http://www.maacommunityrelations.com/content/anznoiseupdate/dcroundtable.php.</p> | <p>The BWI Marshall EA is separate from the DC (OAPM) Metroplex program and comments relevant to the implementation of the DC OAPM are not subject to response for this EA. The Proposed Action within the BWI Marshall EA does not induce operations and therefore is not expected to increase noise concerns.</p> | No change. |
| 12 | Drew Roth | 1/30/18 | Noise | <p>5. Proposed actions</p> <p>I ask the Environmental Protection Agency to take the following actions:</p> | <p>The FAA is the agency responsible for the review and approval of the BWI Marshall EA which is the subject of this response. The FAA's implementation of the NextGen (performance based navigation) flight procedures and any associated revisions to noise contours are unrelated to the proposed improvements included in this Draft EA and Draft Section 4(f) Determination. However, procedural changes implemented as part of the DC OAPM are incorporated into the noise analysis for all alternatives.</p> | No change. |

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| | | | | <ul style="list-style-type: none"> A. Perform a comprehensive Environmental Impact Study on aircraft noise in the vicinity of BWI airport, to specifically include the impacts of the subject EA and the FAA Nextgen Program. B. Evaluate the compliance of the DC Metroplex Program at BWI with respect to the EA and FONSI which authorized the program. C. Until the EIS is complete, require BWI flight paths to revert to what they were prior to the implementation of the Nextgen program, as defined by the DC Metroplex EA. | | |

Attachment 2:

Draft EA Comment Letters and E-mails

March 2018



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor

Robert S. McCord, Acting Secretary

February 6, 2018

Ms. Robin Bowie
Director, Environmental Planning
Maryland Aviation Administration
Baltimore/Washington International Thurgood Marshall Airport
P.O. Box 8766
BWI Airport, MD 21240

STATE CLEARINGHOUSE RECOMMENDATION

State Application Identifier: MD20180108-0001

Applicant: Maryland Aviation Administration

Project Description: Draft Environmental Assessment and Draft Section 4(f) Determination for Proposed Improvement 2016 - 2020(Pavement rehabilitation, Obstruction at removal, Terminal improvements, Taxiway Construction/Relocation...) Baltimore/Washington International Thurgood Marshall Airport Linthicum, Maryland

Project Location: County(ies) of Anne Arundel

Approving Authority: U.S. Department of Transportation/Federal Aviation Administration DOT/FAA

Dear Ms. Bowie:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.01.04-.06, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation. This recommendation is valid for a period of three years from the date of this letter.

Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning, including the Maryland Historical Trust. As of this date, the Maryland Department of Natural Resources and Anne Arundel County have not submitted comments.

The Maryland Department of Planning, including the Maryland Historical Trust found this project to be consistent with their plans, programs, and objectives.

Our Department (Planning) "supports the proposed safety-related and minor capacity-related improvements made to landside facilities at the BWI Marshal Airport. The modifications will help reduce traffic congestion and improve access and egress within the airport terminal roadways. Existing runways were recently upgraded and will not be extended or widened during the life of this plan. Several existing taxiways and ramps will be resurfaced and/or relocated due to FAA mandated minimum separation. Several parking facilities will also be resurfaced. Obstructions will be identified and removed within and around the airport property. We are encouraged to see the MAA consider leveraging mobile applications which will help passengers arrange pick-up along a greater area in the lower terminal roadway, helping to reduce the bunching of cars along the road adjacent to Terminal A and B."

The Maryland Historical Trust has determined that the project will have "no effect" on historic properties and that the federal and/or State historic preservation requirements have been met.

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

1. If the applicant suspects that asbestos is present in any portion of the structure that will be renovated/demolished, then the applicant should contact the Community Environmental Services Program at (410) 537-3215 to learn about the State's requirements.
2. Construction, renovation and/or demolition of buildings and roadways must be performed in conformance with State regulations pertaining to "Particulate Matter from Materials Handling and Construction" requiring that during any construction and/or demolition work, reasonable precaution must be taken to prevent particulate matter, such as fugitive dust, from becoming airborne.
3. 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 at (410) 537-4125 for further information regarding threshold limits.
4. 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 Management Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.
5. 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.
6. 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 Waste Diversion and Utilization Program at (410) 537-3314 for additional information regarding recycling activities.
7. The Waste Diversion and Utilization 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.

Ms. Robin Bowie

February 6, 2018

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State Application Identifier: **MD20180108-0001**

8. Any contract specifying "lead paint abatement" must comply with Code of Maryland Regulations. If a property was built before 1950 and will be used as rental housing, then compliance with COMAR 26.16.02 is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.

9. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. For specific information about these programs and eligibility, please contact the Land Restoration Program at (410) 537-3437.

Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse. The State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation.

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 myra.barnes@maryland.gov. **Also, please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.**

Thank you for your cooperation with the MIRC process.

Sincerely,



Myra Barnes, Lead Clearinghouse Coordinator

MB:MB

Enclosure(s)

cc: Kim Hughes

Greg Golden - DNR

Amanda Degen - MDE

Samantha Harris - ANAR

Bihui Xu - MDPI-T

Joseph Griffiths - MDPL

Beth Cole - MHT

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Larry Hogan, Governor
Boyd Rutherford, Lt. Governor

Robert S. McCord, Acting Secretary

PROJECT STATUS FORM

Please complete this form and return it to the State Clearinghouse upon receipt of notification that the project has been approved or not approved by the approving authority.

TO: Maryland State Clearinghouse
Maryland Department of Planning
301 West Preston Street
Room 1104
Baltimore, MD 21201-2305

DATE: _____
(Please fill in the date form completed)

FROM: _____
(Name of person completing this form.)

PHONE: _____
(Area Code & Phone number)

RE: State Application Identifier: MD20180108-0001
Project Description: Draft Environmental Assessment and Draft Section 4(f) Determination for Proposed Improvement 2016 - 2020(Pavement rehabilitation, Obstruction at removal, Terminal improvements, Taxiway Construction/Relocation...) Baltimore/Washington International Thurgood Marshall Airport Linthicum, Maryland

| | | | |
|------------------------------|-----------------------------------|---|--------------------------------------|
| PROJECT APPROVAL | | | |
| This project/plan was: | <input type="checkbox"/> Approved | <input type="checkbox"/> Approved with Modification | <input type="checkbox"/> Disapproved |
| Name of Approving Authority: | Date Approved: | | |
| _____ | _____ | | |

| | | | |
|---|-----------|-----------|-----------|
| FUNDING APPROVAL | | | |
| <i>The funding (if applicable) has been approved for the period of:</i> | | | |
| _____, 201__ to _____, 201__ as follows: | | | |
| Federal \$: | Local \$: | State \$: | Other \$: |
| _____ | _____ | _____ | _____ |

| |
|---|
| OTHER |
| <input type="checkbox"/> Further comment or explanation is attached |

----- Original message -----

From: Elder Ghigiarelli -MDE- <elder.ghigiarelli@maryland.gov>

Date: 2/9/18 11:05 AM (GMT-05:00)

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Re: Coastal Zone Determination Request

Robin,

I am responding to your request for a Federal Consistency determination, pursuant to Section 307 of the Federal Coastal Zone Management Act of 1972, as amended (CZMA), for proposed improvements to several taxiways, apron areas, and terminal roadways, as well as several proposed new and relocated structures, at BWI Marshall Airport during the 5-year period 2016-2020. These projects are listed in in your January 29, 2018 email and are evaluated in the Environment Assessment (EA) prepared by the Maryland Aviation Administration (MAA) for the proposed activities for the 5-year period.

The EA notes that the proposed improvements will result in 135.7 acres of forest clearing, and will impact 5.73 acres of nontidal wetlands, 6.84 acres of State-regulated nontidal wetlands buffer, 7.07 acres of floodplain, and 1,042 linear feet of stream. To meet the Forest Conservation Act requirements, MAA will mitigate the forest impacts through the placement of DNR Forest Conservation Easements on MAA property. As you know, the nontidal wetlands, waterways, and floodplain impacts will require authorization from the Wetlands and Waterways Program. Appropriate mitigation for these impacts will be determined as part of the permit application review process.

Based on the information presented in the EA, the proposed improvements are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the CZMA, contingent upon the issuance of the required authorization(s) for the proposed impacts to nontidal wetlands, waterways, and the 100-year nontidal floodplain. Please note that this determination does not obviate MAA's responsibility to obtain any other State approval that may be necessary for the proposed activities.

If you have any questions, please contact me.

Elder

Elder Ghigiarelli, Jr.
Deputy Program Administrator
Maryland Federal Consistency Coordinator
Wetlands and Waterways Program
Water and Science Administration
Maryland Department of the Environment
Phone: (410) 537-3763
elder.ghigiarelli@maryland.gov

On Mon, Jan 29, 2018 at 1:14 PM, Robin Bowie <rbowie@bwiairport.com> wrote:

Elder:

It was a pleasure talking to you on Friday! As discussed in our phone call, MAA prepared an Environmental Assessment for proposed improvements to several taxiways, apron areas, and terminal roadways as well as several proposed new and relocated structures at BWI Marshall Airport in the near term (2016-2020). The list below and the attached **Figure 3.7-3** from the EA show the proposed improvements.

Airfield Pavement Improvements

1. Relocate Taxiways R and F
2. Construct Taxiway U3
3. International Terminal Area Taxiway Fillets and Shoulders
4. New Infill Pavement near Taxiways T, P, and Future P
5. Relocate Taxiways K and L
6. Isolation / Remain Overnight Apron Construction
7. Runway 28 Deicing Pad Expansion
8. Relocate Taxiway H
9. Taxiway V Relocation
10. Runway 15R Deicing Pad Expansion

New and/or Relocated Structures and Associated Pavement

11. Second FBO
12. Northrop Grumman Hangar
13. Existing Aircraft Rescue and Firefighting Facility Expansion Bays
14. New Airline Maintenance Facility
15. Runway Deicing Chemical Storage and Access Road
16. Airport Maintenance Complex Relocation and Consolidation
17. Relocate Fire Training Facility
18. New Sky Bridge C

Roadway Improvements

19. Terminal Roadway Widening and Access Improvements
20. Northwest Quadrant Perimeter Road Construction
21. Upper Level Roadway Widening at Concourse E
22. Vehicle Service Roadway Connector

Building and Pavement Demolition

23. Building 113 Demolition
24. Various pavement removal associated with relocated and/or new pavement projects

Other Projects

25. Pole/Sign/Obstruction Lights to be Relocated or Removed
26. Property Acquisition for NEPA Review

Additionally, there are selected trees proposed to be removed as they are obstructions to navigable airspace (see attached **Figure 3.7-4** from the EA).

MAA is seeking a Coastal Zone Consistency determination from MDE for this project.

This project will result in impacts to wetlands, waterways, surface waters, and forests, however the level of impact can be reduced to non-significant as shown below:

| | |
|--|---|
| Biological Resources: | 135.7 acres of forest clearing 1,102 individual trees removed off Airport 1,303 individual trees removed on Airport |
| <i>Mitigation: Placement of MDNR Forest Conservation Easements on MDOT MAA-owned land.</i> | |
| Water Resources: | |
| Wetlands | 5.73 acres of wetland impacts 6.84 acres of wetland buffer impacts |

| | |
|----------------|------------------------------------|
| Floodplains | 7.07 acres of floodplain impacts |
| Surface Waters | 1,042 linear feet of stream impact |

Mitigation: Compensatory mitigation for wetland (including waters of the US) impacts through placement of Deed of Restrictive Covenants on MDOT MAA-owned parcels within the Stony Run Wetlands of Special State Concern. Stormwater management techniques will be employed for impacts to water quality (surface waters). Erosion and Sediment Control Plans will be developed in accordance with MDE guidelines.

Water quality and quantity will be addressed during design to meet the Maryland Department of Environment's Stormwater Management requirements for environmental site design to the maximum extent practicable.

Let me know if you need any additional information. Thanks!

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation Maryland Aviation Administration
[410-859-7103](tel:410-859-7103) (office)
[410-859-7082](tel:410-859-7082) (fax)
rbowie@bwairport.com

Mailing Address

P.O. Box 8766
BWI Airport, MD 21240

Overnight Shipping Address

991 Corporate Boulevard
Linthicum, MD 21090

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Howard County, Maryland

*Howard County Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100*

March 9, 2018

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240

RE: Howard County, Maryland Comments on MAA
Draft Environmental Assessment

Dear Ms. Bowie:

Pursuant to my responsibilities under Howard County law, CB8-2017, please find enclosed Howard County's comments on the *Draft Environmental Assessment and Draft Section 4(f) Determination for the Proposed Improvements 2016-2020 at Baltimore/Washington International Thurgood Marshal Airport* (January 5, 2018) ("Draft EA"), prepared by the Maryland Aviation Administration ("MAA") for approval by the Federal Aviation Administration ("FAA").

The Draft EA is legally insufficient in several respects and is not based on sufficient evidence. The Draft EA is based on non-representative and outdated noise data that MAA has acknowledged does not reflect actual conditions. Additionally, because FAA unilaterally abandoned the 14 CFR Part 150 Noise Compatibility Planning process, which is nowhere addressed in the Draft EA, all of the assumptions about harmful impacts due to noise, based on FAA compliance with Part 150 Planning and the outdated data, are false. Moreover, the Draft EA completely fails to acknowledge the highly controversial and significant harmful impacts that aircraft noise has had on Maryland citizens, including Howard County residents, as a result of FAA's implementation of NextGen. FAA has already recognized this by establishing the BWI Community Roundtable. Furthermore, the Draft EA is deficient in its failure to include sufficient analysis of other environmental impacts related to air quality, climate change, land use, historic

Ms. Robin M. Bowie
March 9, 2018
Page 2 of 2

preservation, and deforestation, and its almost complete failure to consider impacts in Howard County.

For all these reasons, FAA must deny the request for approval of the Proposed Action. Relying on the Draft EA would be arbitrary and capricious and would violate several State and federal statutes. Given the significant, and unexamined, harmful effects of the Proposed action on the quality of the human environment, FAA should order MAA to perform a full Environmental Impact Study pursuant to NEPA, NHPA, and Section 4(f) that includes Howard County, and is based on relevant and reliable noise data. Howard County looks forward to working with MAA to complete a legally sufficient Environmental Impact Statement (“EIS”).

Sincerely,

HOWARD COUNTY OFFICE OF LAW



Gary W. Kuc
County Solicitor

GK:hst
Enclosures

- cc: The Honorable Allan H. Kittleman, County Executive
The Honorable Mary Kay Sigaty, County Council Member & Council Chairperson
The Honorable Calvin Ball, County Council Member & Council Vice Chairperson
The Honorable Greg Fox, County Council Member
The Honorable Jennifer Terrasa, County Council Member
The Honorable Jon Weinstein, County Council Member
Lewis Taylor, Senior Assistant County Solicitor

Howard County Comments on the MAA Draft EA for Airport Expansion (2018)

The Draft EA contains numerous deficiencies that render it non-compliant with the mandates of Maryland State law, NEPA, NHPA, and Section 4(f). Perhaps most significantly, it excludes any meaningful consideration of Howard County. But it also proffers inaccurate data to support its noise analysis. This is because FAA’s unilateral abandonment of State and federal noise abatement programs and FAA’s implementation of new flight procedures have created significantly different noise contours than those depicted and relied upon in the Draft EA. The vast majority of noise data underlying the Draft EA is from before 2015. The flight procedure changes, including those that began to be flown in 2016, have resulted in highly controversial noise impacts. See BWI Community Roundtable letter to FAA dated March 31, 2017, attached as Exhibit A. MAA is on record stating that BWI did not have a noise problem before the final Metroplex procedural changes but that there was a noise problem after implementation of those changes. BWI Community Roundtable minutes, June 20, 2017 (in the first 20 days of June 2017, MAA received over noise 1,000 complaints); see also Exhibit B.

Because the Proposed Action is dedicated to “improving efficiency,” “increasing operations,” and accommodating “anticipated demand” it will have the direct and cumulative impact of significantly increasing harmful noise impacts on Maryland citizens, including the citizens of Howard County. Additionally, because the noise analysis is based on inaccurate information, the Draft EA land use analysis has also been subverted and is insufficient. Compounding these errors, the Draft EA’s analysis of air quality, climate change, land use, historic preservation, and deforestation is also deficient.

The Proposed Action Will Cause Significant Harms to the Human Environment

The Proposed Action involves massive development of the Airport in an effort to increase “activity levels through 2020.” (Draft EA at 2.1.2). The result of this development will increase the harmful impacts of NextGen aircraft noise. The Draft EA makes clear that the proposed development is intended to increase runway system efficiency. Draft EA at 2-4 and 3-11. The Proposed Action is also directed to address “anticipated demand.” Draft EA 2-5 and 3-14. The Draft EA acknowledges that noise impacts will increase because of increased operations due to the Proposed Action. Draft EA K-3-7.

There is voluminous evidence of harmful impacts already. See Exhibit C. These impacts were not properly addressed in the DC Metroplex OAPM EA.¹ Approving the Draft EA would add to the cumulative impacts by continuing to ignore the significant effects caused by federal action at BWI. Because of the direct and cumulative impacts that will result from the Proposed Action, and for the reasons stated below, the Draft EA is not an adequate evaluation of impacts to the environment, nor is it a detailed review of the Proposed Action, as required by FAA Orders 5050.4B and 1050.1F.

The Draft EA Relies On Outdated and Inaccurate Noise Data

Old noise data was used in the Draft EA despite significant changes to air traffic. MAA's analysis in the Draft EA is based almost exclusively on data that is from 2014 or earlier. MAA has admitted this data is invalid because the 2014 Noise Contour Maps do not reflect real flight conditions due to FAA's implementation of NextGen flight procedures at BWI beginning in 2015. MAA attempted to partially address this by presenting "Existing Noise Contour Maps" based on only five weeks of data, three weeks of which were in 2015, before significant flight path changes occurred in February of 2016. The Existing Noise Contour Maps are not representative of noise resulting from BWI departures and MAA's existing noise exposure maps remain inaccurate. The real, existing, and future noise contours are indisputably different from what MAA relies upon because FAA significantly changed flight procedures without notice and the MAA noise monitoring system has been largely non-operational over the last 18 months.

The noise data relied on in the Draft EA does not represent real-life conditions because the majority of noise data was collected in 2014 and earlier.² However, in 2015, 2016, and 2017, FAA implemented new navigation waypoints and flight procedure changes that were not consistent with the federally approved and State required BWI Noise Abatement Plan ("NAP"). MD CODE ANN.,

¹ The DC Metroplex was an early inductee to NextGen and so got the worst of FAA's unlawful implementation, but FAA's actions in implementing NextGen flight procedure changes that were not in accordance with federal law has been documented in *City of Phoenix* and *Georgetown*. In the DC Metroplex, FAA actively mischaracterized its activities as having little to no effect below 3,000 feet altitude. FAA Finding of No Significant Impact for the DC OAPM (2013). In fact, there have been significant changes below 3,000 feet that FAA failed to disclose and which are adversely affecting thousands of Maryland residents, including in Howard County. FAA acknowledged this by creating the BWI Community Roundtable but, its interactions with the Roundtable have continued the misrepresentations and mischaracterizations by FAA.

² FAA approved the BWI noise exposure maps in 2016. 81 FR 59714-01 (August 30, 2016). This was based on the Airport Noise Zone Update prepared by MAA in 2014; revisions to the 2014 Update in 2016 did not affect noise contours, land use inventory, or population estimates.

TRANSP. § 5-805. In particular, the implementation of the TERPZ6 waypoint and the relocation of the WONCE waypoint contributed to a shift that had already begun of Runway 28 departures further to the north. This can be seen in Exhibit D. Consequently, as FAA has stated, the existing Noise Abatement Procedures “do not exist anymore.” Exhibit E.

The flight path changes included a quick right turn on departures from Runway 28 moving traffic to the north of areas that had been used since 1990 and concentrating traffic so that noise impacts are magnified. FAA has stated that the turn to the right was at least 10 degrees. BWI Community RoundTable minutes July 18, 2017. The turn takes place approximately 800 feet above ground level. FAA has noted that turns made at lower altitude require more power and therefore generate more noise. See Exhibit E.

MAA wrote to FAA as early as October of 2015, that the new procedures did not comply with the Noise Compatibility Program (“NCP”) or the NAP. MAA specifically informed FAA that the “NextGen departure procedures differ from the previous procedures in both flight track and altitude requirements for all runway departures below 3,000 feet AGL.” Exhibit F. MAA noted in the letter that these were the first meaningful changes that had occurred in the procedures since the NCP was approved by FAA in 1990.

MAA reiterated the same position in a April 25, 2016, letter to FAA, stating that the “new flight procedures place departing aircraft at lower altitudes and indifferent flight paths over long established residential communities” and “the Runway 28 departure procedures place departing aircraft along different flight paths and different altitudes than those specified in BWI Marshall’s NAP.” Exhibit F.

But MAA fails to adequately acknowledge any of this in the Draft EA. Instead, MAA relies on old noise data that MAA admits is no longer valid and a very limited set of new data, derived from computer models, that is not representative of current flight paths. A review of flight track imagery produced by FAA and MAA shows clearly that noise contour maps created in 2014 bear no relation to current noise contours, which have moved as a result of FAA’s flight procedure changes, and which include areas of Howard County. Exhibit G. It is telling that even incorporating only two weeks of 2016 flight track data, the Existing Noise Contours moved significantly to the north. Accurate data from flight tracks that are currently being flown would show a further movement north over areas of Howard County, including schools, that have not historically experienced 65dB DNL noise impacts.

The noise model inputs used to develop noise contours are supposed to rely on “representative flight track descriptions.” BWI Airport Noise Zone Update (“ANZ Update”) at 5. Because the flight tracks have changed, the old data is not a sufficient basis upon which to base the Draft EA noise analysis. FAA cannot continue to ignore the significant flight path changes that will increase under the Proposed Action, and which have caused harms to the people of Howard County. A full EIS must be performed that includes current flight track information and noise monitoring data.

It is clear from Figure K-2-4, that even the *de minimus* analysis of two weeks from 2016 significantly moved the noise contours to the north. An accurate noise exposure map would show them even further north. Figure 2-29 in Appendix K-2 shows the inaccuracy of the modeled efforts. Many radar flight tracks lie far outside the modeled paths. Moreover, because Runway 15R was also affected by the flight procedure changes and that traffic travels over the same areas of Howard County as Runway 28 departures, the noise levels in those areas have not been properly modeled. The Draft EA indicates that the Proposed Action will increase 65dB DNL noise contours by 8.3%, particularly off of Runway 28. Draft EA K-3-8. Confusingly, the Draft EA states elsewhere that the Proposed Action noise contours are expected to increase 1.3% over the No Action alternative. Draft EA at 5-32. Based on the increase in traffic that is the purported need for the Proposed Action, it makes no sense that the No Action alternative would result in the same noise impacts as the Proposed Action. An EIS should be performed based on real data so that a genuine alternatives analysis can occur, and real impacts evaluated.

It is important to note that throughout this time the MAA Noise Monitoring System has been barely functional. Throughout 2015 and 2016, only 7 out of 23 noise monitoring stations were operational. See Exhibit H. There are no results from 2015 for Columbia or the two Hanover locations. MAA acknowledged in 2014 that the noise monitoring systems was “outdated” and that “several pieces of equipment have failed.” ANZ Update at 59. The paucity of real data available means that an EIS must be performed. It is also noteworthy that MAA has conducted several noise studies in the last two years, due to massive increase in complaints, yet none of them were utilized or even mentioned in the Draft EA.

Increases in night operations, increases in stage-length, and the introduction of a new maintenance facility and de-icing pad, that will increase noise producing run-up operations are

additional factors that contribute to expanding noise contours that are not sufficiently captured or analyzed in the Draft EA.

Compounding the failure of MAA's noise analysis, is the fact that the BWI NAP and Airport Noise Zone ("ANZ") are currently in violation of State law because they do not reflect the significant flight procedure changes implemented by FAA. State law requires that the largest of the three contours (65dB+) in any area around the Airport determines the ANZ thereby offering protection within the largest of the existing or future noise exposure contours. ANZ Update at 53. Although the new procedures were implemented in 2015 and 2016, MAA has not updated the ANZ as required by law. TRANSP. §§ 5-805(b), 5-806, and 5-819. Given MAA's ongoing non-compliance with State law regarding noise abatement, and the fact that new areas of Howard County are now in the 65dB DNL, which constitutes a significant change, approval of the Draft EA would be arbitrary and capricious.

The Draft EA Land Use Analysis is Insufficient

Like the outdated noise data, MAA unreasonably relies on a land use analysis that ignores FAA's abandonment of a huge land use program that is imbedded in State law, the ANZ. State law requires NAP be established where an impacted land use area lies within a noise zone and where adjustments are necessary due to operational changes. TRANSP. § 5-805(b). MAA has failed to comply with both statutory mandates.³ Howard County lies within a noise zone and operational changes require adjustment to existing plans. See COMAR 11.03.01.02B(3), which requires that Howard County be included in the BWI Noise Zone.

Instead of addressing these issues, MAA relies on the 2014 noise contour maps, not the Existing Noise Contour maps, in its land use analysis. Draft EA 4-39, Fig. 4-10-2. Consequently, while the Draft EA discusses the Anne Arundel County General Development Plan, there is no discussion at all of Howard County land use planning. Draft EA section 4.13 also fails to discuss Howard County. Additionally, the land-use analysis relies on 2014 forecasts of noise levels in 2019 and 2024, Draft EA 4-39, which are demonstrably wrong due to the new flight procedure changes. Thus, the land use analysis is insufficient, whether it includes Howard County or not.

NEPA regulations require discussion of inconsistency with existing plans. 40 CFR 1506.2. But the Draft EA does not even mention that FAA has abandoned the Part 150 planning process.

³ MAA's failure to pursue a NAP is subject to a Writ of Mandamus. MAA has admitted that Howard County lies with 65dB DNL noise contours. See, e.g., Draft EA Table 4.12.2.

Draft EA 5-26, 5-30; see also Exhibit E. MAA cannot continue expansion plans while ignoring the fact that land use planning around the airport has been totally upended and failing to include Howard County in its land use analysis.

Other Draft EA Deficiencies

There are several other ways in which the Draft EA fails to meet statutory requirements. The Draft EA must be based on valid data. It must also include information sufficient to inform the general public of the impacts that will be imposed on them. Because the significant flight procedure changes are not addressed in the EA, the analysis of multiple environmental impacts fails.

The air quality and climate change analysis did not take into consideration the dramatic flight procedure changes imposed by FAA, which has resulted in significant air quality impacts. Incredibly, there was no air quality monitoring conducted in Howard County. Draft EA Table 4.2.7. This is totally unacceptable, particularly as Howard County is in a NAAQS non-attainment area and it receives the vast majority of departure traffic from BWI and a substantial amount of arrival traffic, all of which are now occurring at lower altitudes, which means less geographic dispersion of pollutants and pollutant precursors and thus greater impacts on Howard County citizens, including school children. Because the aircraft emissions data was based on the 2014 ANZ Update, it does not incorporate any of the considerable changes that have taken place since 2015. Draft EA Appendix G, 1-1. These changes include, among other things, increased thrust for low altitude turns. Increased thrust means increased emissions. The climate and GHG analysis also failed to consider these increased emissions. There is actually little climate analysis at all, with MAA apparently relying on the fact that there are no airport-related federal standards for GHG emissions. Draft EA 5-13. NEPA requires more. The Draft EA's failure to address all this means that a full EIS must be performed.

Closely connected to air quality and climate change are the impacts associated with deforestation. The Draft EA proposes significant tree removal but fails to consider how this will affect air quality, climate, or noise. Draft EA 3-10, Figure 3.2.8. The important noise buffering and air quality impacts associated with tree removal should be considered in a full EIS.

Historical Resource Impacts and Section 4(f)

The Draft EA seeks to address FAA's responsibilities under NHPA Section 106 in sections 4.9 and 5.8, but the analysis is inadequate. This is partly due to the fact that the noise exposure maps are wrong. It is also due to the fact that MAA has used an area of potential effects ("APE") that does not meet statutory criteria. The APE is supposed to be the "geographic area within which an undertaking may directly or indirectly cause alterations in the character of use of historic properties." Draft EA 4-33. But MAA used an APE with the same boundaries as the Study Area. This is inadequate because of the significant adverse effects aircraft noise has on historic properties outside of MAA's designated APE. The APE should extend at least through accurate 65dB DNL noise contours and possibly further depending on the historic properties involved.

The impact of noise on the character and settings of historic properties constitutes an adverse impact that MAA must study further. Attached as Exhibit I is a sample of the many historic properties in Howard County that are potentially threatened by the Proposed Action. None of these properties is discussed, or even mentioned in the Draft EA.

The Section 4(f) analysis is similarly impaired as no Howard County properties were considered, despite the fact that there are many publicly owned lands, including parks and historic sites of significance that will be constructively used due to the noise and visual impact of the Proposed Action.

The Alternatives Analysis is Inadequate

The alternatives analysis is generally inadequate because of the contradictory nature of the claims made by MAA. MAA claims that the Proposed Action is needed to increase operations and efficiency, reduce runway occupancy times, and to meet anticipated demand. But MAA claims both that the several No Action alternatives will not address the need to expand operations, but will result in the same level of air traffic. This is clearly an arbitrary conclusion. This conclusion is further undermined because the Proposed Action is not accurately evaluated based on the flight procedure changes that have taken place. Accordingly, the impacts of the Proposed Action are underestimated, while the No Action impacts are over estimated. One example of this is Draft EA figure K-7, which purports to show that the noise contours under the Proposed Action and No Action alternatives would be virtually the same. This obviously cannot be true given the 10 degree low altitude right turn Runway 28 departures make, which was not adequately analyzed in the Draft EA. The noise contours rely on old data, which is demonstrated by the fact that the

Draft EA No Action and Proposed Action contours would be the same. This shows that the Existing Noise Contours are based on unreliable information. Otherwise, they would show a deviation to the north. A full EIS with a genuine alternatives analysis must be conducted.

Conclusion

Relying on the Draft EA for compliance with NEPA, NHPA, and Section 4(f) would be not only be arbitrary and capricious, it would also be incredibly unfair to the citizens of Howard County. FAA and MAA have ostensibly been “engaged” with the community to solve the problems of NextGen, but there has been obfuscation and misdirection at every step. The failure of the Draft EA to adequately consider the significant flight procedure changes that have occurred since 2015 means that it is legally insufficient. For the same reasons, the Draft EA does not satisfy the requirements of the Maryland Environmental Policy Act. NAT. RES. § 1-301, *et seq.* A full EIS must be prepared that adequately addresses the impacts and effects associated with the Proposed Action.

EXHIBIT A

DC METROPLEX BWI COMMUNITY ROUNDTABLE
c/o Maryland Department of Transportation Aviation Administration
991 Corporate Boulevard
Linthicum, Maryland 21090

March 31, 2017

Mr. Michael P. Huerta
Administrator
Federal Aviation Administration
800 Independence Ave SW
Washington DC 20591

Re: Roundtable Resolution to Revert to Pre-DC Metroplex/NextGen Procedures

Dear Mr. Huerta:

As requested by the Federal Aviation Administration (FAA), the Maryland Department of Transportation Aviation Administration (MAA) worked with State and County elected officials to form a roundtable made up of community representatives impacted by the implementation of DC Metroplex/NextGen plan.

Now formed, we are identified as the DC Metroplex BWI Community Roundtable (Roundtable), and our first meeting was held on March 21, 2017. During that meeting, we approved the Charter, elected a Chairman and Vice Chairman, and established ourselves as a group of community representatives with the goal of mitigating noise and other harmful impacts and seeking alternatives for populations impacted by DC Metroplex/NextGen implementation. The MAA will provide you with the DC Metroplex BWI Community Roundtable Charter (approved at the meeting) and the Roundtable membership as of March 24, 2017.

We have been advised that the MAA has discussed with the FAA on multiple occasions that the MAA has received thousands of complaints from residents in the vicinity of BWI Marshall following the implementation of the DC Metroplex/NextGen flight paths and procedures. In general, the complainants assert that many aircraft are now flying nearer their homes, whether due to new flight paths, frequency, low altitude or otherwise. The aircraft produce unwanted and unacceptable noise, vibration and other undesirable effects that are traumatic and oppressive, and deprive affected residents of the quiet and peaceful enjoyment of their homes they had prior to the implementation of the procedures. Some residents report that it has become intolerable to stay in their homes due to DC Metroplex/NextGen.

At our March 21 meeting, our Roundtable unanimously adopted the following resolution on an urgent basis:

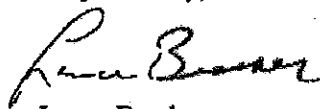
The DC Metroplex BWI Community Roundtable requests and recommends that the FAA immediately revert to flight paths and procedures that were in place prior to implementation of NextGen and the DC Metroplex plan (*i.e.*, the *status quo ante*) in order to provide urgent relief to residents adversely affected by these new flight paths and procedures, while a more deliberate and public-facing process to develop and implement NextGen and a DC Metroplex plan is undertaken.

The Roundtable also requests that you and other senior officials of the FAA participate in our next meeting on April 18, 2017 to (1) respond to this urgent resolution and (2) provide a review of stakeholder feedback from the October 27, 2016 open house sponsored by the MAA and FAA.

This is a matter that is of the utmost importance to the residents and communities harmed by the FAA's development and implementation of DC Metroplex/NextGen flight paths and procedures. While we welcomed the sincere acknowledgement by the FAA representative at our March 21 meeting that the FAA erred in the development and implementation of DC Metroplex/NextGen and his assurances that the FAA is committed to addressing the harm it has created, we have yet to see evidence of that commitment. We need for the FAA to make resolving this issue a top priority. We need for the FAA to take responsibility for the harm it has caused and is causing the BWI communities and residents and lead the efforts to correct this harm urgently.

The Roundtable has requested the MAA to transmit this letter to you. I would be pleased to meet with you and can be reached at any time on my mobile phone 443-995-0259 to discuss.

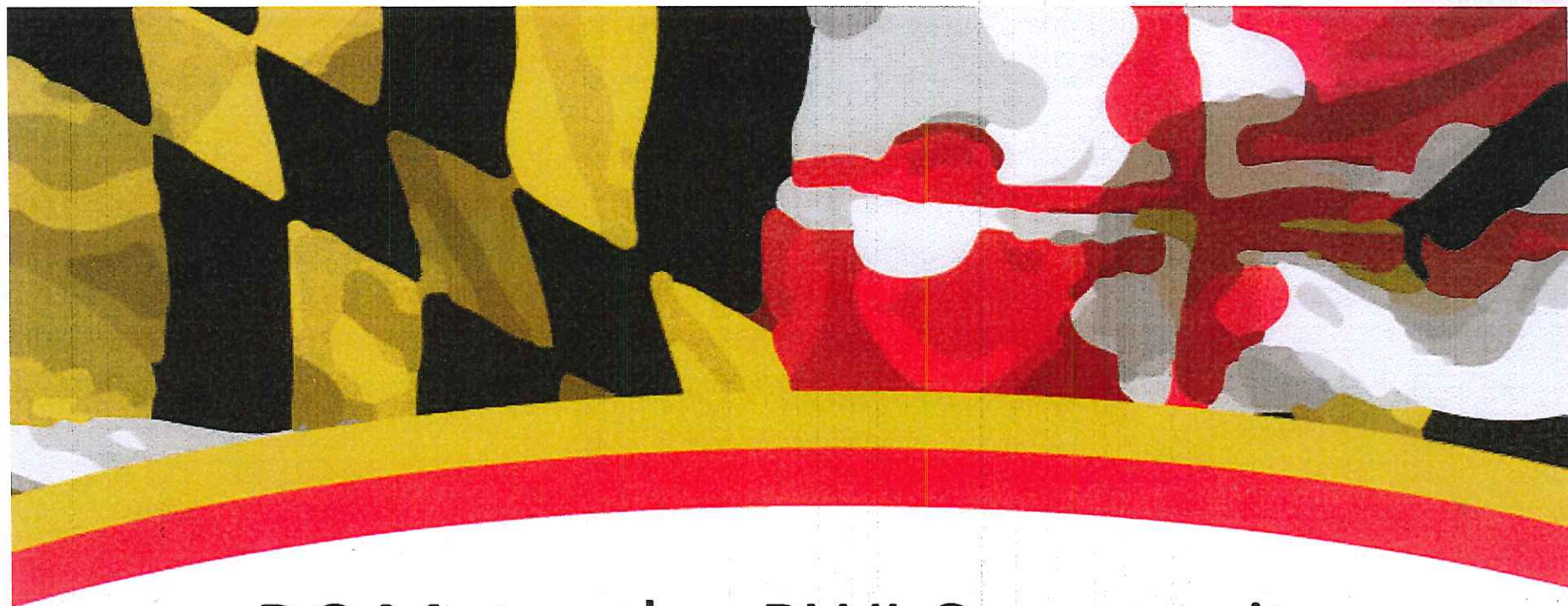
Very sincerely,



Lance Brasher
Chairman,
DC Metroplex BWI Community Roundtable

cc: Mr. Christopher Yates, DC Metroplex BWI Community Roundtable Vice
Chair
Mr. Carmine Gallo, Regional Administrator, Eastern Region, FAA
Ms. Elizabeth Ray, Vice President, Mission Support Services, FAA
Mr. Ricky Smith, Executive Director/CEO MAA
Mr. Paul Shank, P.E., Chief Engineer, Div. of Planning & Engineering, MAA
Ms. Ellen Sample, Director, Office of Real Estate & Noise Abatement, MAA

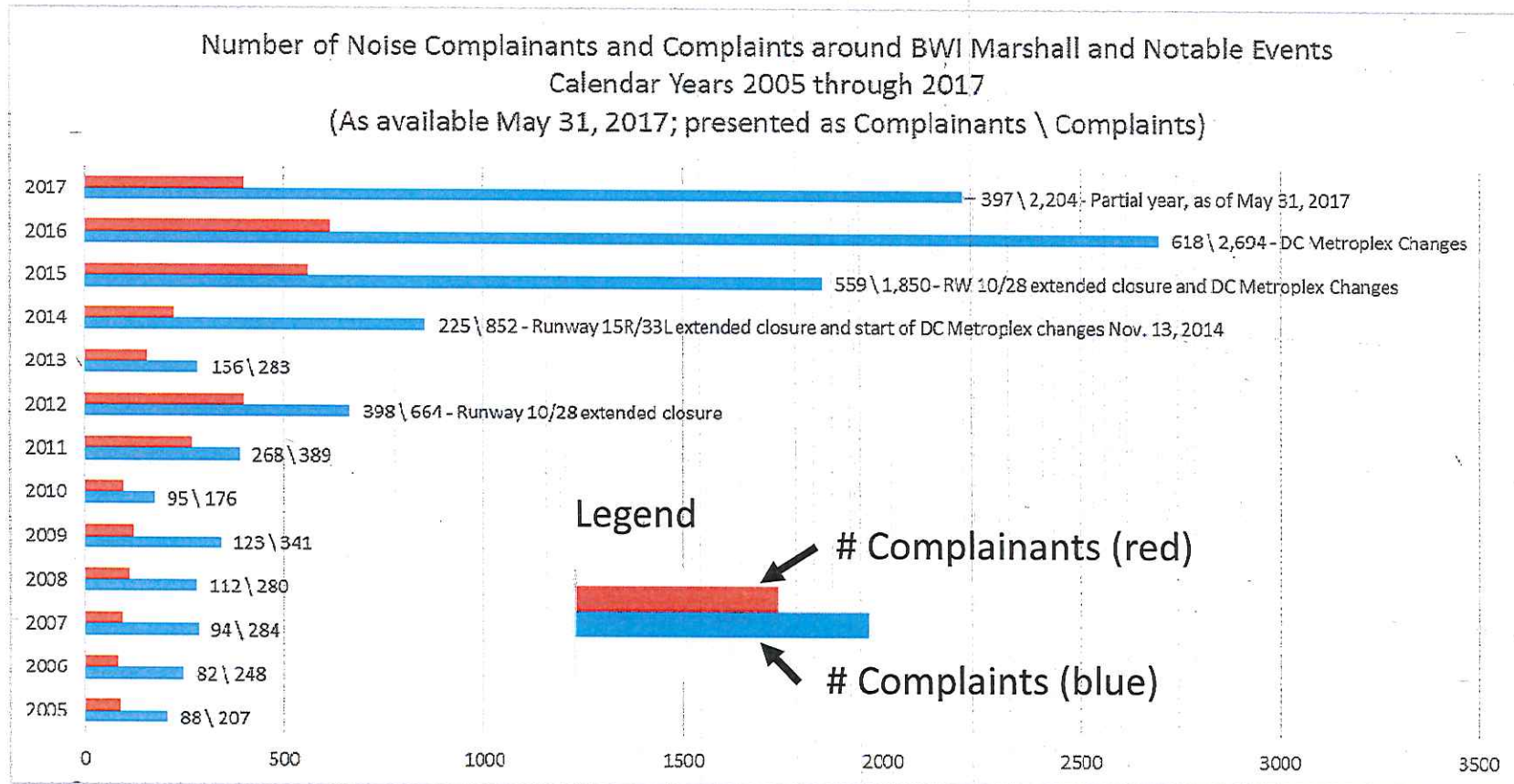
EXHIBIT B



DC Metroplex BWI Community
Roundtable
Complaint History and Runway Use
presented June 20, 2017



Number of Noise Complainants and Complaints around BWI Marshall and Notable Events



'be better'



EXHIBIT C

DC METROPLEX BWI COMMUNITY ROUNDTABLE
c/o Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240-0766

September 8, 2017

Michael P. Huerta
Administrator
U.S. Department of Transportation
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Administrator Huerta,

In an effort to procure relief to thousands of residents in the vicinity of BWI Thurgood Marshall Airport suffering substantial mental and physical trauma, loss of quiet enjoyment of their homes and a destruction of property values due to changed arriving and departing aircraft flight paths and procedures arising out of or in connection with the DC Metroplex/NextGen scheme, on March 20, 2017, the newly formed DC Metroplex BWI Community Roundtable unanimously adopted a resolution to request that the FAA revert to flight paths and procedures in place prior to DC Metroplex/NextGen (the "*Status Quo Ante* Resolution"). See attachment 1 to this letter, prepared by the FAA, containing representative examples of pre-DC Metroplex/NextGen BWI departure and arrival flight paths. The Roundtable's request was submitted to you in a letter from the Roundtable, dated March 31, 2017. On April 18, 2017, the Maryland Congressional Delegation collectively sent a letter to the FAA in support of the *Status Quo Ante* Resolution. Subsequently, Maryland Governor Hogan made a similar request to the FAA on May 11, 2017 and to the Secretary of the U.S. Department of Transportation on August 1, 2017. These letters are attached as attachments 2, 3, 4 and 5. The governments of Anne Arundel, Baltimore and Howard Counties have also expressed support for the *Status Quo Ante* Resolution.

On May 12, 2017, Elizabeth Ray responded on behalf of the FAA to the Roundtable's letter stating the FAA's commitment on a high-priority basis to address *Status Quo Ante* Resolution. The Roundtable is appreciative of the commitment stated in Ms. Ray's letter and other communications and the efforts of the FAA team to date, including those of Bennie Hutto, Robert Owens and others. To be clear, however, we believe FAA leadership has full responsibility for and should take ownership for correcting the intuitively apparent and terribly harmful design defects in the DC Metroplex/NextGen scheme. Further, the reliance placed by the FAA on arcane measures for assessing significant environmental impact of the DC Metroplex/NextGen scheme was inexcusable and the implementation of the scheme following experience in Phoenix and other jurisdictions without correcting these obvious design defects,

such as the low altitude concentration of flight paths on departures and arrivals, was made in knowing disregard for the harm they would inflict on affected residents.

As the FAA PBN Implementation Working Group begins to address the *Status Quo Ante* Resolution, Ms. Ray has asked us to provide further guidance about what the Roundtable requires. As we have explained in Roundtable meetings as well as my discussions with Ms. Ray, the Roundtable believes that the FAA is singularly positioned to know what is needed to revert to the *status quo ante* and must take action to do so. The Roundtable comprises a group of concerned citizens, most of whom have little information about airport and FAA operations and procedures. Consequently, the Roundtable's views, certain of which we describe below, are based on limited information and observed harms communicated. Our response to FAA remedial proposals and our other requests for consideration are necessarily preliminary, they are not intended exclusive and they are guided by the principle of the *Status Quo Ante* Resolution.

Subject to the forgoing reservation, and as we have communicated to the FAA in our meetings or otherwise repeatedly, we have observed at least three main sources of problems with BWI flight paths and procedures arising out of or in connection with DC Metroplex/NextGen.

- The use of new flight paths
- The concentration of aircraft in narrow flight paths
- Lower aircraft altitudes

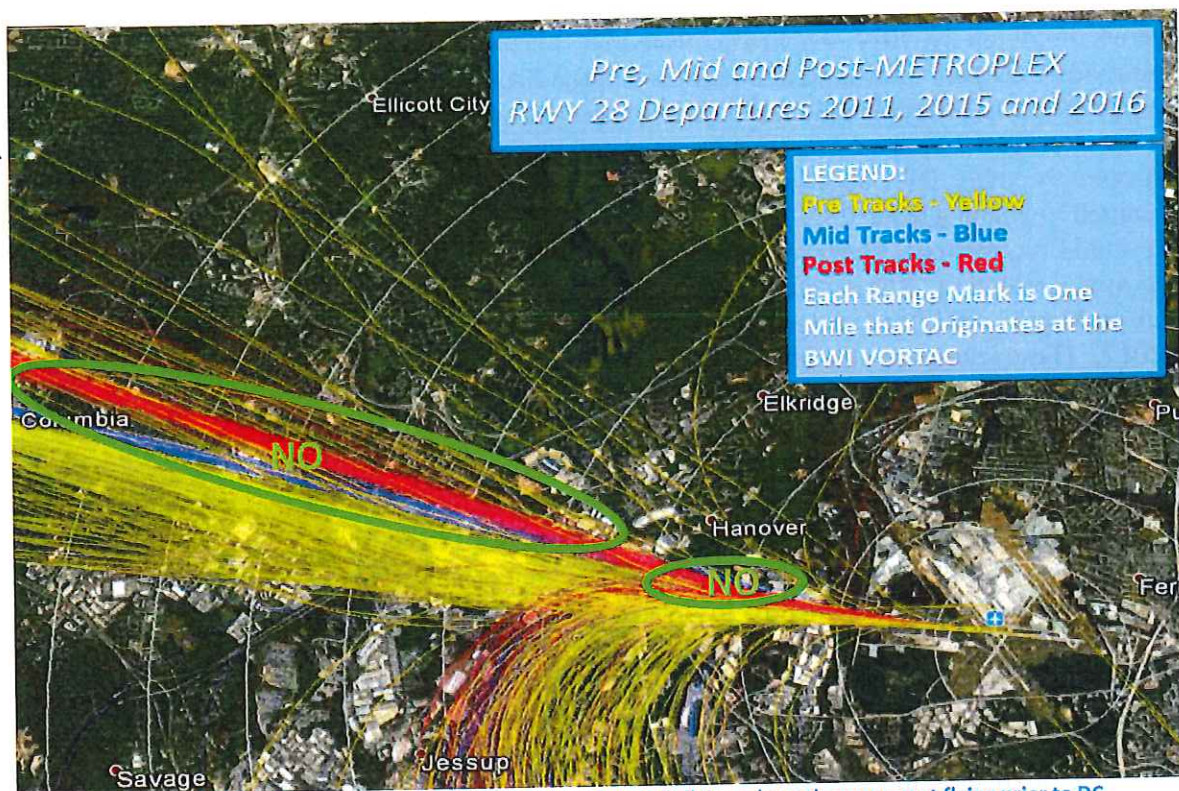


Figure 1A Runway 28 Departures - shows specific examples of aircraft flying where they were not flying prior to DC Metroplex/NextGen.

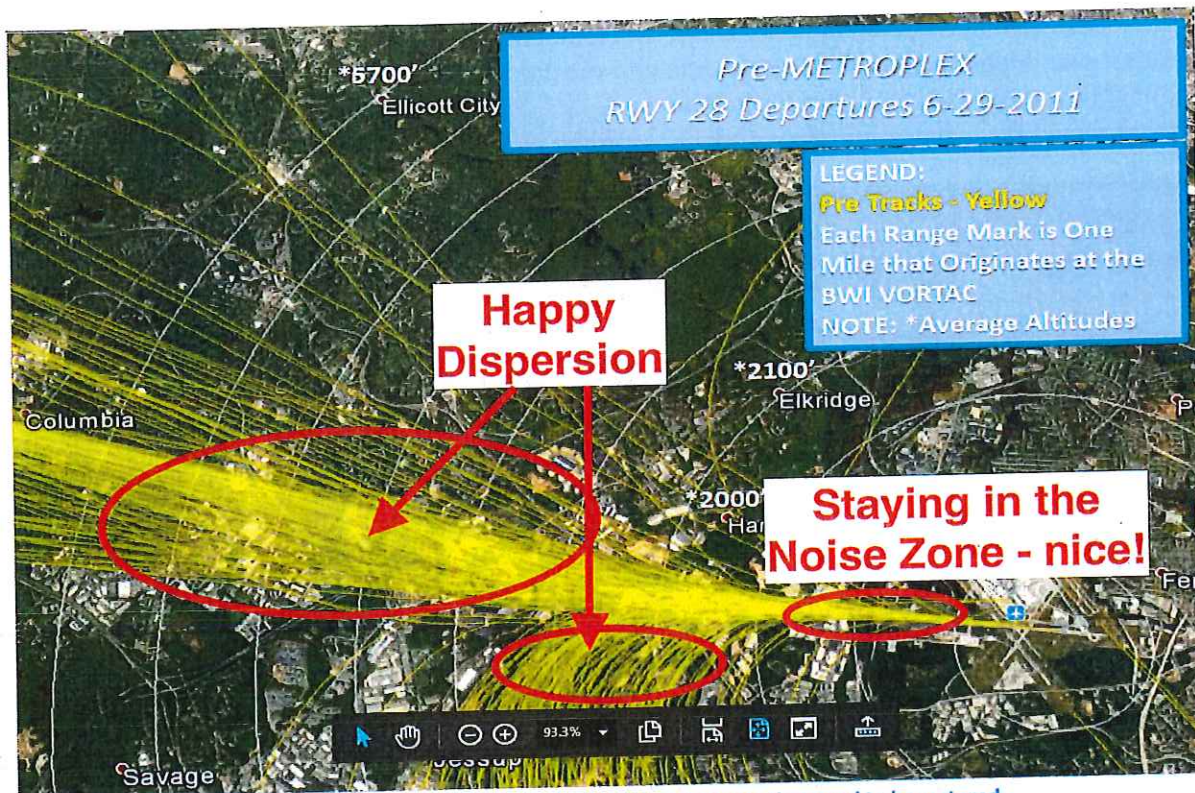


Figure 1B Runway 28 Departures – shows pre-DC Metroplex/NextGen features that need to be restored.

1. New flight paths have been created by DC Metroplex/NextGen; FAA must revert to old flight paths. Thousands of community residents have observed aircraft flying along flight paths that were not being flown previously. See Figures 1A, 2A and 3A and FAA flight path diagrams in Attachments 1 and 6 for comparison and as representative examples. These new flight paths include, among others:

- Runway 28 departure – early turn and path shift to the north and flying south at low altitude
- Runway 15 departure – earlier and lower turn
- Runway 33L and 10 arrivals – flights cleared direct to any waypoints from the RAVNN arrival (including waypoints GRAFE, SPLAT, JANNNS)

We have been advised by Ms. Ray and other FAA representatives that the FAA will be working to revert on the turns and flight paths for runway 28 and 15 departures.

Regarding runway 33L, as discussed at the Roundtable's July 18, 2017 meeting and requested in the Roundtable's letter to the FAA, dated July 25, 2017 (see Attachment 7), aircraft would not be "cleared direct" to GRAFE, SPLAT or JANNNS but would be vectored to the final approach course with the objective of achieving dispersion consistent with that illustrated in Attachment 1. Runway 10 arrivals, the ANTHM3 and TRISH2, also have resulted in concentrated flights upstream and at lower altitudes which are unacceptable.

As discussed below, the post-NextGen lack of controller vectoring has concentrated aircraft onto highly geographically specific and repetitive tracks over affected areas of Anne Arundel County. The result has been an increase in aircraft density and frequency in the same airspace over the same populations and any such increase is unacceptable.

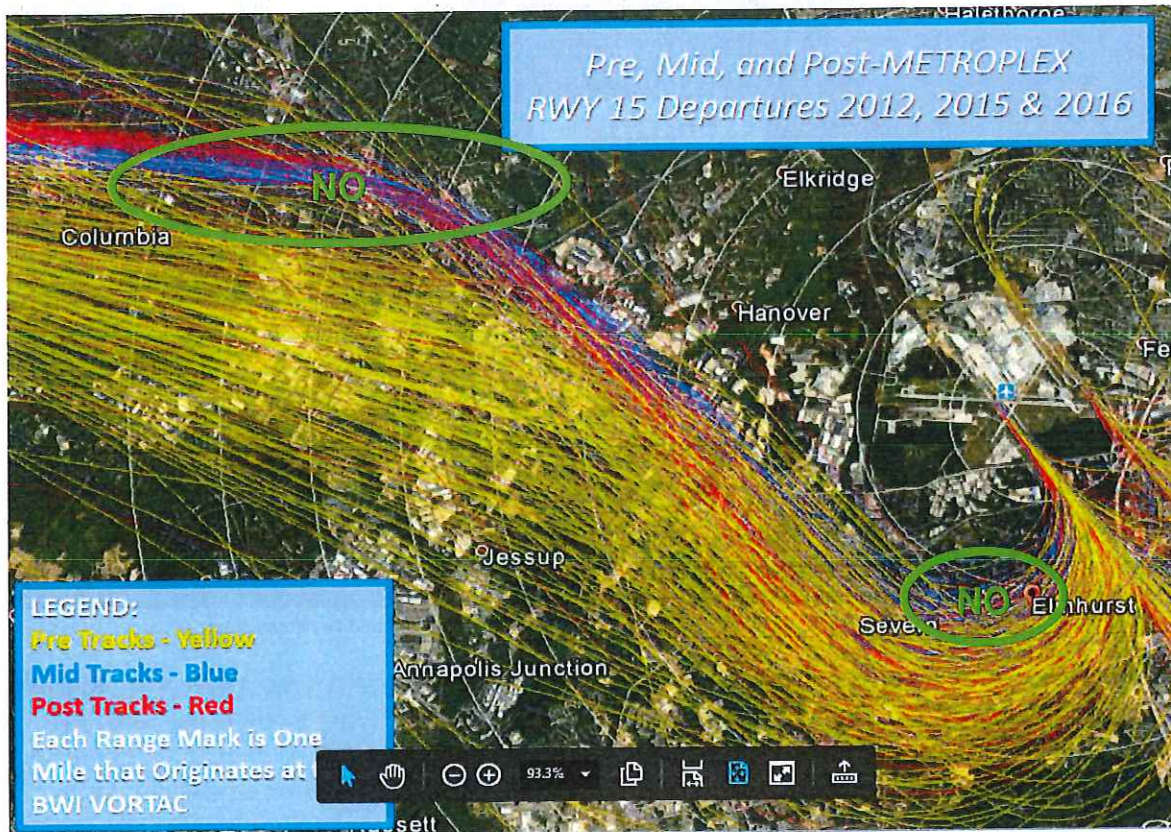


Figure 2A Runway 15 Departures - shows specific examples of planes flying where they were not flying prior to DC Metroplex/NextGen.



Figure 2B Runway 15 Departures – shows pre-DC Metroplex/NextGen features that need to be restored.

2. DC Metroplex/NextGen has resulted in a concentration of flight paths in narrow corridors; FAA must revert to old procedures that were effective in achieving dispersion. The concentration of low flying aircraft along the departure and arrival flight paths has been disastrous for residents underneath them. Numerous studies have demonstrated the harmful effect on mental and physical health due to aircraft and low frequency noise. In addition to the health effects, there is a questionably constitutional taking by the FAA of the residents' quiet and peaceful enjoyment of their homes and attendant economic loss due to lower property values. A comparison of pre- and post-DC Metroplex/NextGen flight paths as shown on Attachments 1 and 6 clearly shows the concentration of flight paths post-DC Metroplex/NextGen and that those under the flight paths would be significantly impacted is intuitive.

We understand from the FAA's presentation at the June 20, 2017, meeting of the Roundtable that for departures, the notional zones identified are intended to revert flight paths, not only to the location as mentioned above, but to achieve dispersion within the zones back to historical dispersion. We are concerned, however, that that the slides from the June 20 presentation do not adequately specify geographic boundaries. The notional zones identified on the June 20 presentation are based on a data set of 150 flights and time period of two months in 2014 that may be too small or not representative of historical dispersion. Additional data and time periods, such as those included in Attachment 1, should be considered in formulating a solution without delay. The PBN Working Group should continue its work while this additional

data is reviewed in order to maintain the timetable for published procedures described by the FAA in its June 20 presentation.

The June 20 presentation did not provide for notional zones to deal for dispersion on arrivals, but notwithstanding the presentation, Ms. Ray communicated at the meeting and in subsequent communications that the FAA understands the problem of concentration and the request for dispersion (examples of which are shown on Attachment 1) and would undertake efforts to recreate that dispersion on arrivals.

As you know, the Roundtable has requested in its letter dated July 25, 2017 to the FAA (Robert Owens) in that (i) for departures from BWI, the FAA seek the waiver that would allow air traffic controllers to vector aircraft to create dispersion as Robert Owens described during his presentation at the July 18 Roundtable meeting and (ii) for arrivals to BWI, air traffic controllers would revert to vectoring aircraft to the final approach course and would stop all direct clearances to waypoints in order to achieve spacing and dispersion and to eliminate concentrated flight paths. We request these remedial measures to be implemented immediately and made permanent or until such time it is demonstrated with certainty that NextGen as implemented will maintain dispersion at historical levels and avoid the current concentration of departures and arrivals.

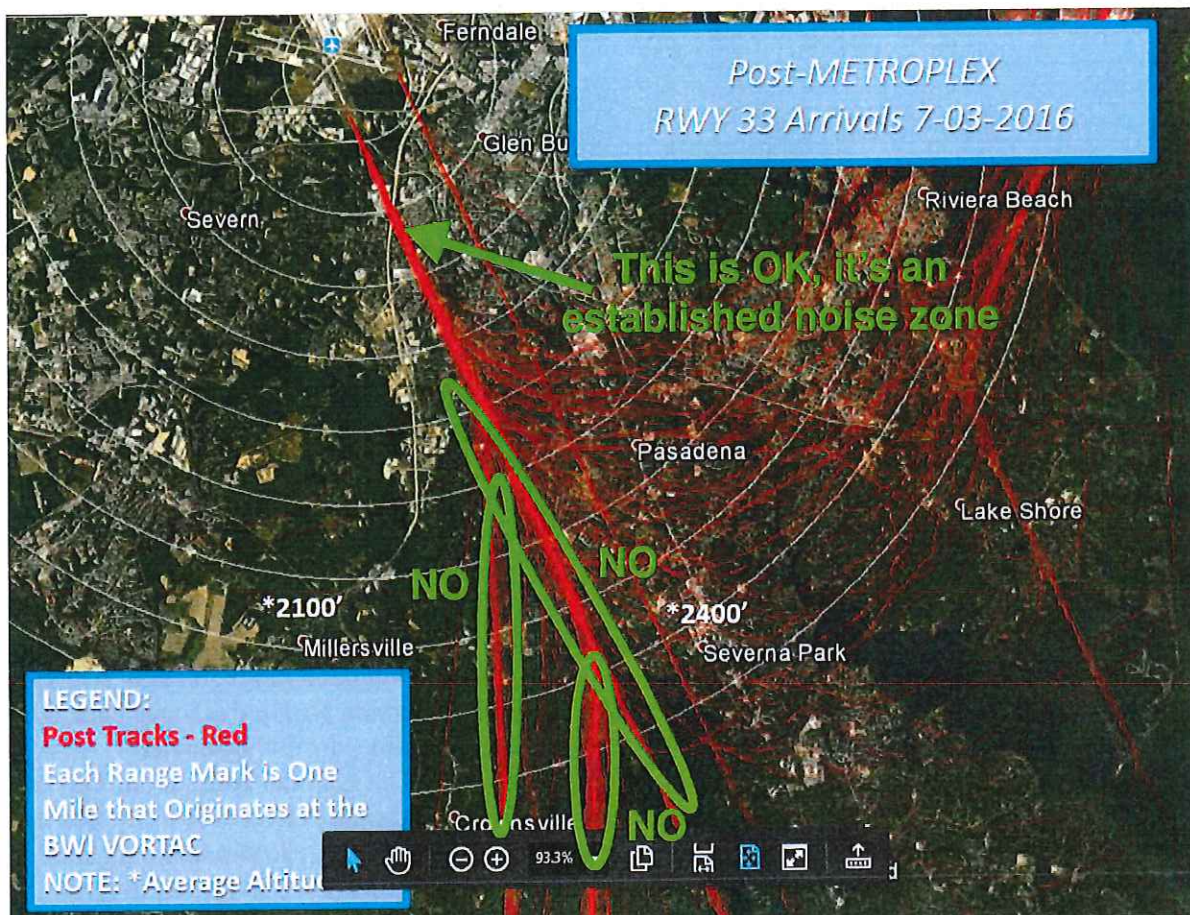


Figure 3A Runway 33L Arrivals - as well as figures 1 and 2 above, show examples of how planes are now concentrated into narrow corridors so that plane after plane are destructive for the residents beneath.

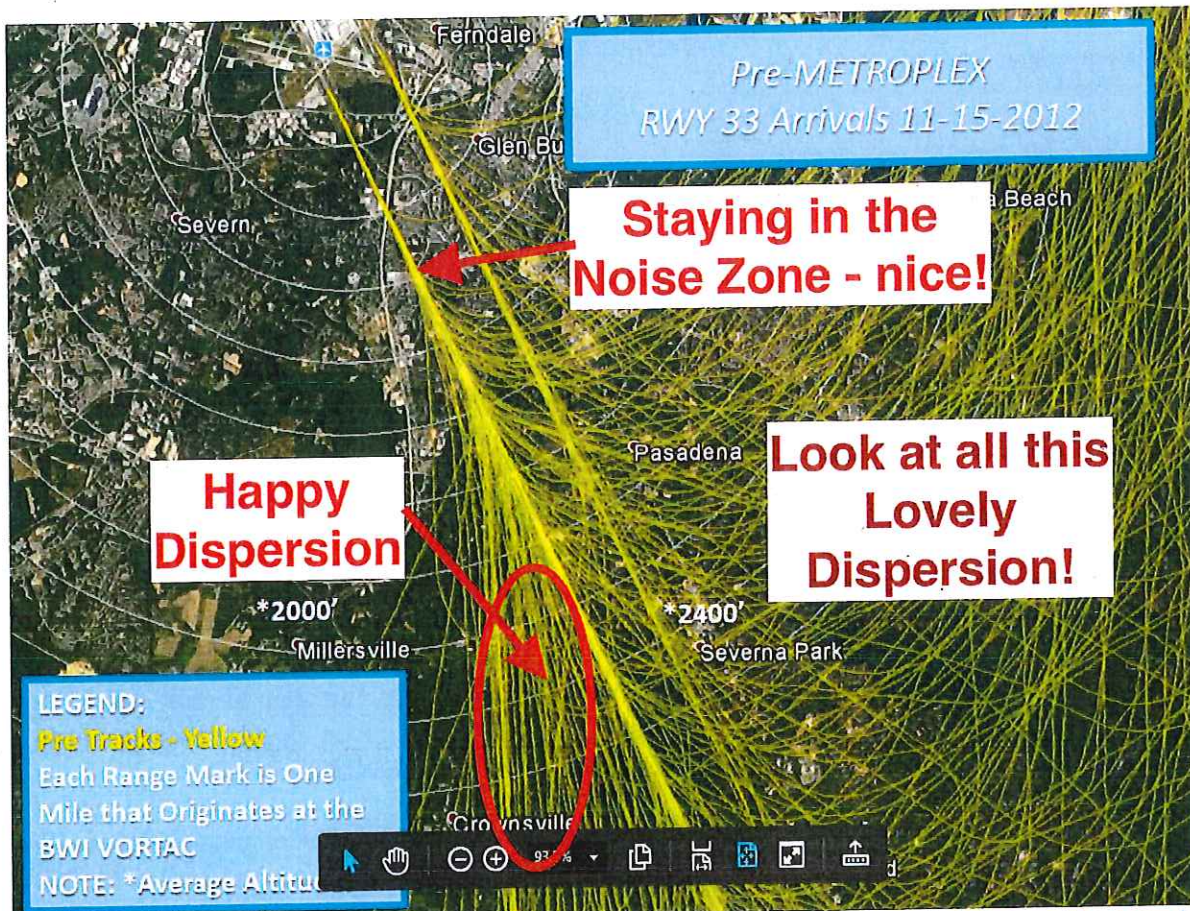


Figure 3B Runway 33L Arrivals - shows dispersion and features of pre-DC Metroplex/NextGen arrivals that must be restored.

3. FAA procedures permit aircraft to fly at altitudes too low; procedures must be modified to require aircraft to fly at the highest safe altitude at all times during departures and arrivals. Residents universally state that aircraft are flying lower under the DC Metroplex/NextGen scheme that previously. We understand there is conflicting data about how low aircraft are flying and issues regarding whether representations regarding aircraft altitude in DC Metroplex environmental assessment were accurate. As stated by FAA operations representatives for BWI approach control, the frequent ATC procedure of clearing aircraft for visual approaches has had the effect of alleviating an aircraft's obligation to comply with published arrival and approach procedure altitudes resulting in much lower flying aircraft. This has directly translated into an unacceptably lower altitude for regular flight operations. For arrival aircraft this has affected flights from as far out as the RAVNN waypoint on the RAVNN arrival and their joining of the final approach corridor into 33L at lower than IFR standard glideslope intercept altitudes. For 15R departures this has resulted in aircraft turning at lower altitudes; altitudes should be restored to previously established altitudes and the turn should be restored to 1 DME.

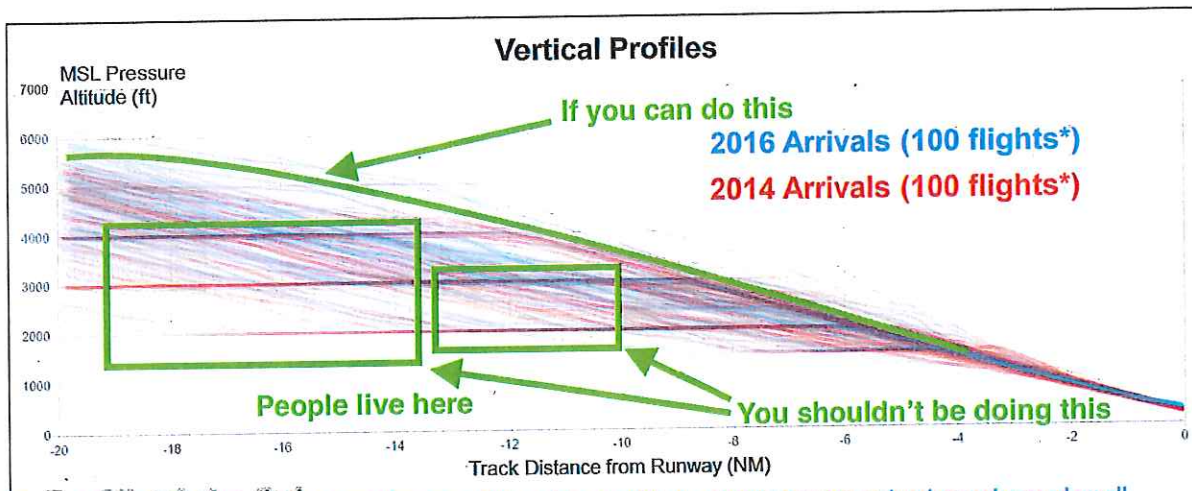


Figure 4 Vertical Profiles – shows how planes are flying at lower altitudes than necessary, as has been observed on all arrivals, particularly bothersome with arrivals on Runway 33L and Runway 10.

Also in our July 25 letter to the FAA, we have requested that the FAA implement the cooperation and training as proposed by Robert Owens at the July 18 meeting as soon as possible. We further request that FAA and airport procedures and rules be changed so that achieving and maintaining the highest safe altitude for departing and arriving aircraft is a requirement, rather than only a voluntary undertaking. All flights given visual clearances must not descend below published altitudes for the entire arrival and approach procedure.

In addition, we ask the FAA to look at procedural changes, including shifting flight paths for aircraft transiting the region, such as flights from DCA, away from the area to allow for BWI departures and arriving aircraft to achieve or maintain higher altitudes.

It is imperative that the FAA develop effective solutions expeditiously and on the first try. Also, any solution must be one that (i) is demonstrated to achieve the reversion to historical flight paths, the historical dispersion of aircraft and the higher aircraft altitudes described above, (ii) includes procedures with which controllers and others as applicable are mandated to comply, (iii) is a legal, valid and binding obligation of the FAA enforceable in accordance with its terms and (iv) is subject to monitoring and frequent and regular reporting to demonstrate compliance.

We believe there is the greatest possibility for this if the Roundtable is fully engaged in the FAA processes and kept frequently and timely apprised of developments with opportunity to review and comment on plans as they are developed. We look forward to working with the FAA and MAA collaboratively.

The mental and physical trauma, loss of peaceful enjoyment of homes and destruction of property values being suffered by thousands of residents are real. We look forward to the speedy development and implementation of solutions that correct the failings of the new flight paths and procedures. Time is of the essence.

Sincerely,



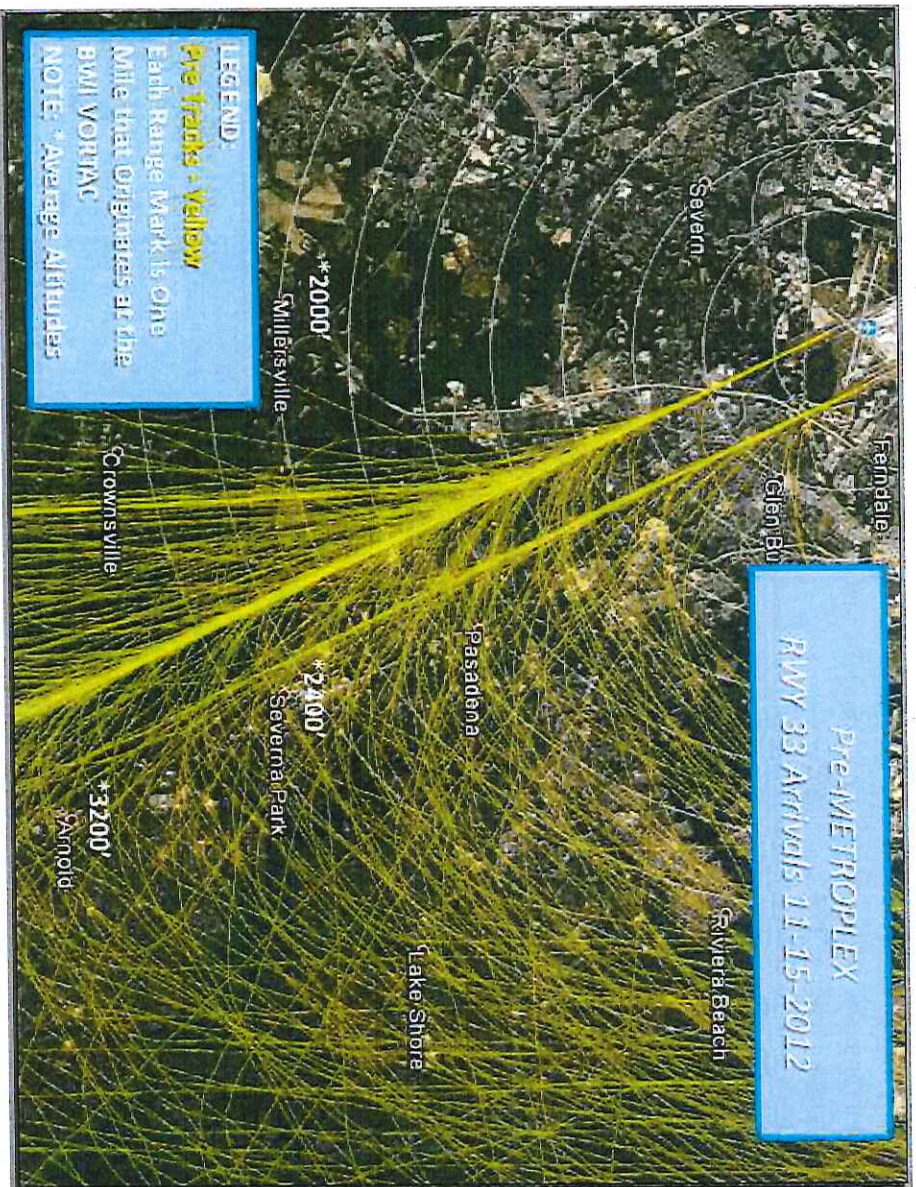
Lance Brasher
Chair

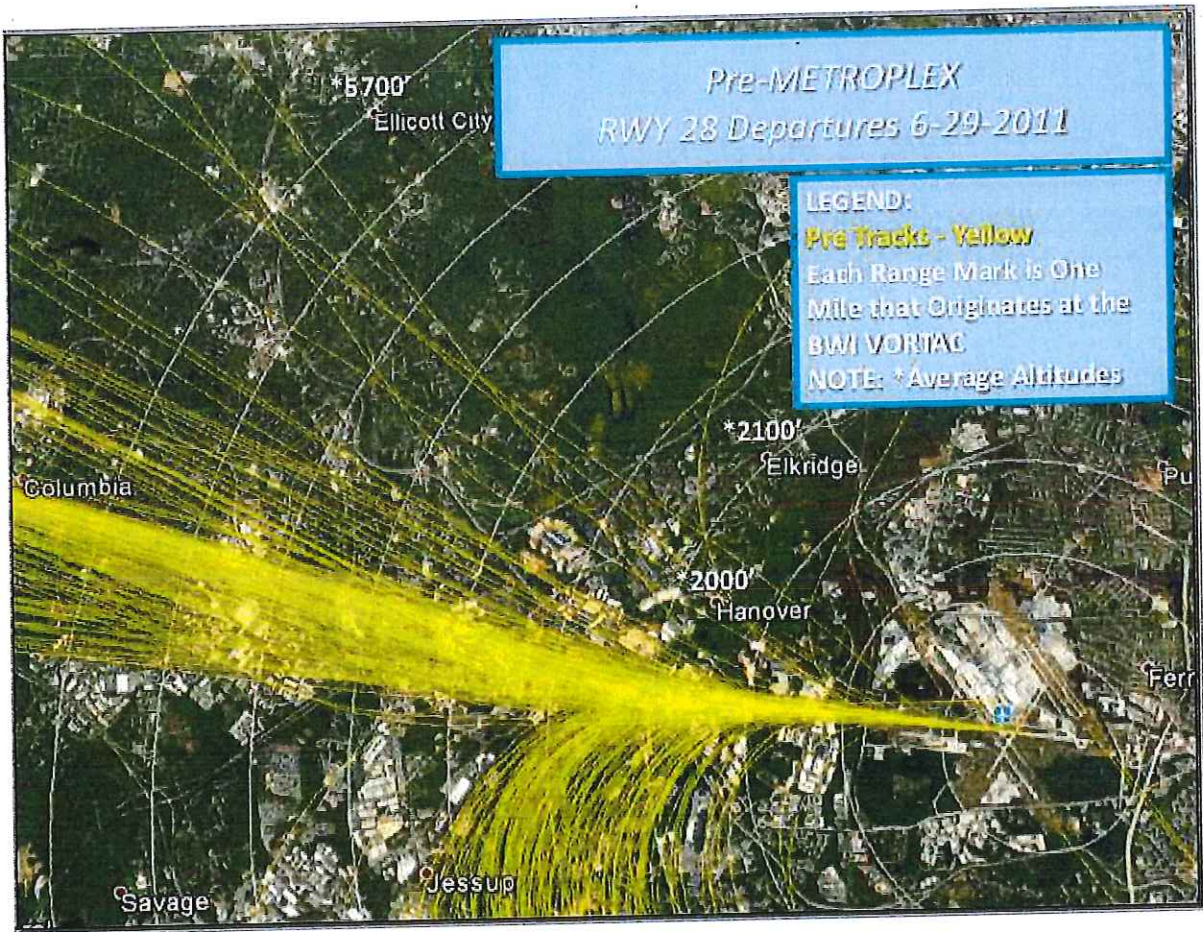
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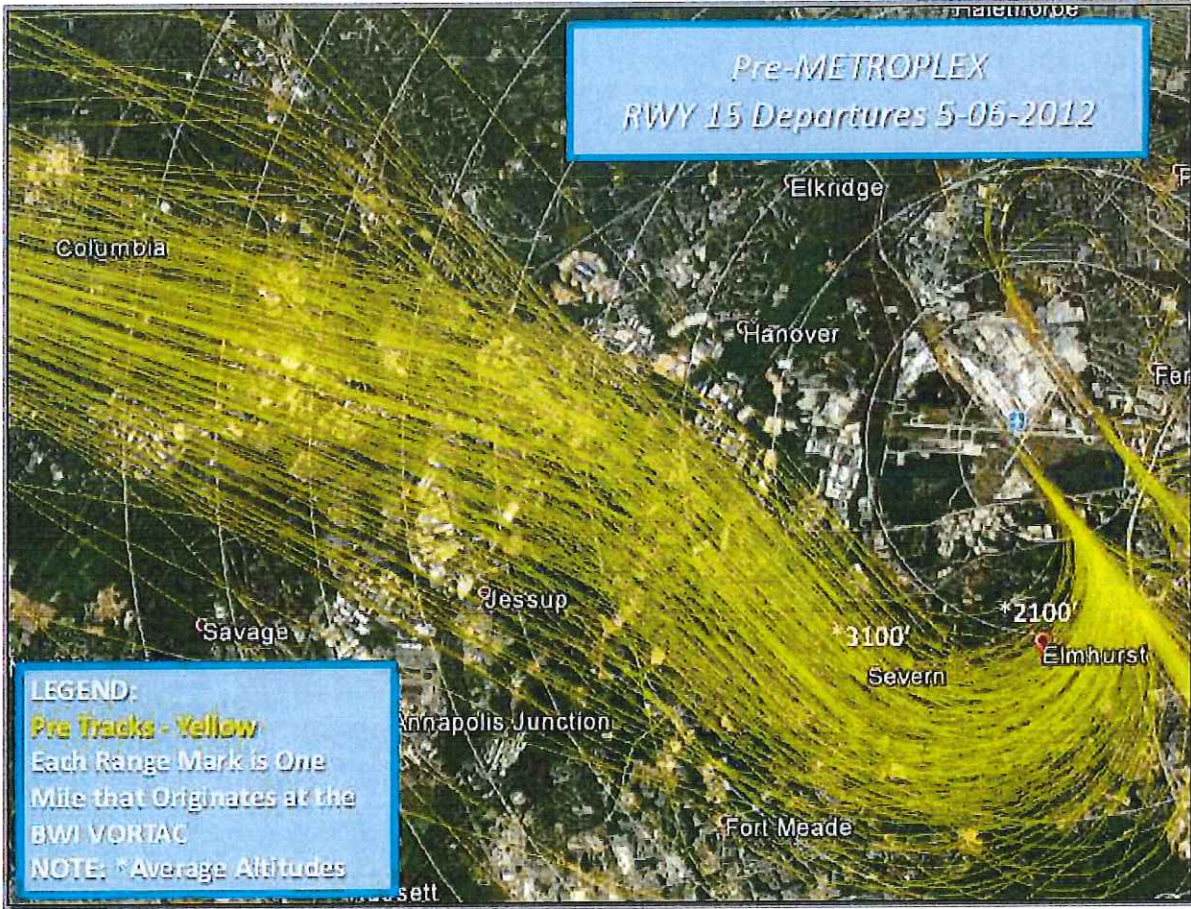
The Honorable Larry Hogan
The Honorable Benjamin L. Cardin
The Honorable Christopher Van Hollen, Jr.
The Honorable Andrew P. Harris, M.D.
The Honorable C.A. Dutch Ruppersberger
The Honorable John P. Sarbanes
The Honorable Anthony G. Brown
The Honorable Steny H. Hoyer
The Honorable John K. Delaney
The Honorable Elijah E. Cummings
The Honorable Jamie B. Raskin
Mr. Christopher Yates, DC Metroplex BWI Community Roundtable Vice Chair
Ms. Elizabeth Ray, Vice President, Mission Support Services, FAA
Mr. Paul Shank, P.E., Chief Engineer, Div. of Planning & Engineering, MAA

Attachment 1: FAA pre-DC Metroplex/NextGen flight path diagrams
Attachment 2: Roundtable letter to the FAA, dated March 31, 2017
Attachment 3: Congressional Delegation letter to the FAA, dated April 18, 2017
Attachment 4: Maryland Governor letter to the FAA, dated May 11, 2017
Attachment 5: Maryland Governor letter to the DOT, dated August 1, 2017
Attachment 6: FAA Post-DC Metroplex flight path diagrams
Attachment 7: Roundtable letter to the FAA, dated July 25, 2017

Attachment I







Attachment 2

DC METROPLEX BWI COMMUNITY ROUNDTABLE
c/o Maryland Department of Transportation Aviation Administration
991 Corporate Boulevard
Linthicum, Maryland 21090

March 31, 2017

Mr. Michael P. Huerta
Administrator
Federal Aviation Administration
800 Independence Ave SW
Washington DC 20591

Re: Roundtable Resolution to Revert to Pre-DC Metroplex/NextGen Procedures

Dear Mr. Huerta:

As requested by the Federal Aviation Administration (FAA), the Maryland Department of Transportation Aviation Administration (MAA) worked with State and County elected officials to form a roundtable made up of community representatives impacted by the implementation of DC Metroplex/NextGen plan.

Now formed, we are identified as the DC Metroplex BWI Community Roundtable (Roundtable), and our first meeting was held on March 21, 2017. During that meeting, we approved the Charter, elected a Chairman and Vice Chairman, and established ourselves as a group of community representatives with the goal of mitigating noise and other harmful impacts and seeking alternatives for populations impacted by DC Metroplex/NextGen implementation. The MAA will provide you with the DC Metroplex BWI Community Roundtable Charter (approved at the meeting) and the Roundtable membership as of March 24, 2017.

We have been advised that the MAA has discussed with the FAA on multiple occasions that the MAA has received thousands of complaints from residents in the vicinity of BWI Marshall following the implementation of the DC Metroplex/NextGen flight paths and procedures. In general, the complainants assert that many aircraft are now flying nearer their homes, whether due to new flight paths, frequency, low altitude or otherwise. The aircraft produce unwanted and unacceptable noise, vibration and other undesirable effects that are traumatic and oppressive, and deprive affected residents of the quiet and peaceful enjoyment of their homes they had prior to the implementation of the procedures. Some residents report that it has become intolerable to stay in their homes due to DC Metroplex/NextGen.

At our March 21 meeting, our Roundtable unanimously adopted the following resolution on an urgent basis:

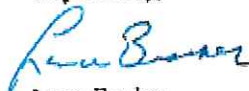
The DC Metroplex BWI Community Roundtable requests and recommends that the FAA immediately revert to flight paths and procedures that were in place prior to implementation of NextGen and the DC Metroplex plan (*i.e.*, the *status quo ante*) in order to provide urgent relief to residents adversely affected by these new flight paths and procedures, while a more deliberate and public-facing process to develop and implement NextGen and a DC Metroplex plan is undertaken.

The Roundtable also requests that you and other senior officials of the FAA participate in our next meeting on April 18, 2017 to (1) respond to this urgent resolution and (2) provide a review of stakeholder feedback from the October 27, 2016 open house sponsored by the MAA and FAA.

This is a matter that is of the utmost importance to the residents and communities harmed by the FAA's development and implementation of DC Metroplex/NextGen flight paths and procedures. While we welcomed the sincere acknowledgement by the FAA representative at our March 21 meeting that the FAA erred in the development and implementation of DC Metroplex/NextGen and his assurances that the FAA is committed to addressing the harm it has created, we have yet to see evidence of that commitment. We need for the FAA to make resolving this issue a top priority. We need for the FAA to take responsibility for the harm it has caused and is causing the BWI communities and residents and lead the efforts to correct this harm urgently.

The Roundtable has requested the MAA to transmit this letter to you. I would be pleased to meet with you and can be reached at any time on my mobile phone 443-995-0259 to discuss.

Very sincerely,



Lance Brasher
Chairman,
DC Metroplex BWI Community Roundtable

cc: Mr. Christopher Yates, DC Metroplex BWI Community Roundtable Vice
Chair
Mr. Carmine Gallo, Regional Administrator, Eastern Region, FAA
Ms. Elizabeth Ray, Vice President, Mission Support Services, FAA
Mr. Ricky Smith, Executive Director/CEO MAA
Mr. Paul Shank, P.E., Chief Engineer, Div. of Planning & Engineering, MAA
Ms. Ellen Sample, Director, Office of Real Estate & Noise Abatement, MAA

Attachment 3

Congress of the United States
Washington, DC 20510

April 18, 2017

Hon. Michael P. Huerta
Administrator
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591-0004

Dear Administrator Huerta:

We are writing to you in support of the DC Metroplex BWI Community Roundtable's "Resolution to Revert to Pre-DC Metroplex/NextGen Procedures" that the Roundtable sent to you on March 31, 2017, a copy of which is attached.

As you know, the implementation of NextGen flights in 2015 has created an intolerable situation for those living under the flight paths. These residents cannot work or study at home, converse in a normal tone of voice, sleep well, or simply have the quiet enjoyment of their property. This is an unacceptable and unsustainable situation.

The DC Metroplex BWI Community Roundtable was formed by the Maryland Aviation Administration in response to the Federal Aviation Administration's request for a BWI community consensus before taking steps to change the NextGen flight paths. In its letter to Senator Benjamin Cardin dated December 12, 2016, the FAA stated that it is "committed to giving full and fair consideration to any formal CR [Community Roundtable] endorsed changes, which could include returning to previous flight paths if that is a consensus position after getting input from affected communities."

The Roundtable is comprised of representatives from each of the affected communities around BWI Thurgood Marshall Airport, as well as representatives from the aviation industry. Two appointed representatives from each legislative district in Anne Arundel and Howard Counties are included, as well as representatives from the offices of the Anne Arundel County Council President and the County Executives of Anne Arundel, Howard, and Baltimore Counties.

At its meeting on March 21, 2017, the members of the Roundtable voted unanimously to adopt the following Resolution:

The DC Metroplex BWI Community Roundtable requests and recommends that the FAA immediately revert to flight paths and procedures that were in place prior to implementation of NextGen and the DC Metroplex plan (i.e.,


the *status quo ante*) in order to provide urgent relief to residents adversely affected by these new flight paths and procedures, while a more deliberate and public-facing process to develop and implement NextGen and a DC Metroplex plan is undertaken.


This Resolution satisfies the FAA's request that a Community Roundtable reach a consensus position before the FAA will consider returning to previous flight paths. Now that the Roundtable has acted, we call upon you to accept the Roundtable's Resolution and take swift action to revert to pre-NextGen flight paths. It is essential to provide relief to the affected residents until an acceptable solution can be devised.

We look forward to your prompt response.

Sincerely,

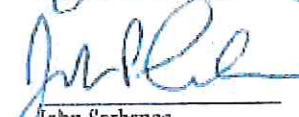

Benjamin L. Cardin
United States Senator



Chris Van Hollen
United States Senator


Steny H. Hoyer
Member of Congress



Elijah Cummings
Member of Congress


C.A. Dutch Ruppersberger
Member of Congress


John Sarbanes
Member of Congress


John K. Delaney
Member of Congress


Anthony Brown
Member of Congress


Janice Raskin
Member of Congress

Attachment 4



LARRY HOGAN
GOVERNOR

May 11, 2017

STATE OF MARYLAND
OFFICE OF THE GOVERNOR

Michael P. Huerta, Administrator
U.S. Department of Transportation
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Re: NextGen Flight Path

Dear Mr. Huerta:

As you are aware, the Next Generation Air Transportation System (NextGen) at Baltimore/Washington International Thurgood Marshall Airport and Ronald Reagan Washington National Airport in November 2014 has dramatically increased the noise levels in several populous Maryland jurisdictions. To date, there has been little to no action taken to mitigate this noise pollution. In fact, the problem has only metastasized into the National Capital Region and beyond.

When the Maryland State Highway Administration designs and constructs new highways and bridges, we work hard to minimize the impact of traffic noise on our citizens. While vehicular noise is to be expected, we strive to provide reasonable actions. We do not willfully ignore the local communities and circumvent their input.

You advised the Maryland Aviation Administration to create a Community Roundtable of residents and industry representatives, indicating that the FAA requires a consensus prior to developing, testing and implementing any significant air space procedural changes. The Community Roundtable unanimously adopted the following resolution:

"The DC Metroplex BWI Community Roundtable requests and recommends that the FAA immediately revert to flight paths and procedures that were in place prior to implementation of NextGen and the DC Metroplex plan (i.e., the status quo ante) in order to provide urgent relief to residents adversely affected by these new flight paths and procedures, while a more deliberate and public-facing process to develop and implement NextGen and a DC Metroplex plan is undertaken."

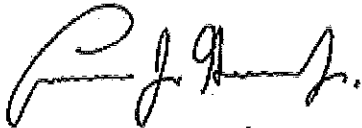
STATE HOUSE, ANNAPOLIS, MARYLAND 21401
(410) 974-3000 1-800-811-8338
TTY USERS CALL VIA MD RELAY

Regardless, your agency has refused to make any meaningful adjustments. In fact, your agency stated at the April 18th meeting that the FAA would not return to the pre-NextGen flight paths, and would only make minor modifications. This is completely unacceptable. The FAA has a duty to listen and work with the communities it impacts. I am asking for the FAA to reconsider these procedures.

There is certainly merit to transitioning into a satellite-based air traffic control system. However, while the NextGEN system will provide savings for the airline industry, I will not have the citizens of Anne Arundel, Baltimore, Howard, and Montgomery Counties pay a human cost with their health and emotional well-being.

Therefore, I ask the FAA to immediately return to the pre-NextGEN flight patterns for a period of time while state and local stakeholders are engaged. I sincerely hope that we are able to find common ground and an amicable resolution. I welcome the opportunity to continue this discussion as soon as possible - please contact my Chief of Staff, Sam Malhotra, at sam.malhotra@msryland.gov, or at 410-974-5154, for arrangements. Thank you,

Sincerely,



Lawrence J. Hogan, Jr.
Governor

Cc:

The Honorable Kevin Kamenetz
The Honorable Allan Kittleman
The Honorable Ike Leggett
The Honorable Steven Schuh

Attachment 5



LARRY HOGAN
GOVERNOR

STATE OF MARYLAND
OFFICE OF THE GOVERNOR

August 01, 2017

The Honorable Elaine L. Chao, Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE - 9th Floor
Washington, DC 20590

Re: Next Generation Air Transportation System (NextGen)

Dear Secretary Chao:

Two months ago, I wrote a letter to Federal Aviation Administration (FAA) Administrator Michael Huerta expressing my deep concern about increased noise levels in several populous Maryland jurisdictions as a direct result of implementing the FAA's Next Generation Air Transportation System (NextGen). I also shared my strong displeasure that the FAA had not provided immediate and meaningful reform to date.

Following this recurring theme of little to no action by the FAA, I have yet to receive a reply to my May 11, 2017 letter (enclosed). The Administrator does not seem to understand that chronic aircraft noise exposes otherwise healthy people to stress and potential medical conditions, as well as directly negatively impacting property values for Maryland homeowners.

Baltimore Washington International Thurgood Marshall (BWI) Airport is the number one airport in the Mid-Atlantic region. With travel on the East Coast rapidly growing, this noise issue has been adversely affecting citizens in Anne Arundel, Baltimore, and Howard Counties for the past three years.

In addition the noise issues generated at BWI, our Montgomery County residents have been adversely affected by flight path changes at Ronald Reagan Washington National Airport. Montgomery County citizens are experiencing a growing sense of disenfranchisement when attempting to voice their concerns to the appropriate authorities.

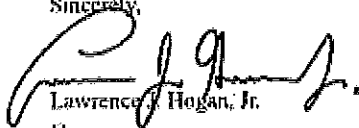
I respectfully request a review and path forward to address our citizens' concerns, and ask that the Administrator address these issues via a written response to my letter no later than August 15,

STATE HOUSE, ANNAPOLIS, MARYLAND 21401
14101 574-3801 1-800-811-8336
TTY USERS CALL VIA MD RELAY

2017. Our administration is committed to seeking sincere resolution on this important matter, and we intend to maintain an open dialog with your office as we work to achieve a mutually acceptable solution.

I thank you for your time and attention to this matter. The Maryland Secretary of Transportation Pete Rahn, is available to discuss further at 410-865-1800 or prahn@mdot.state.md.us, and of course, you may always contact me directly.

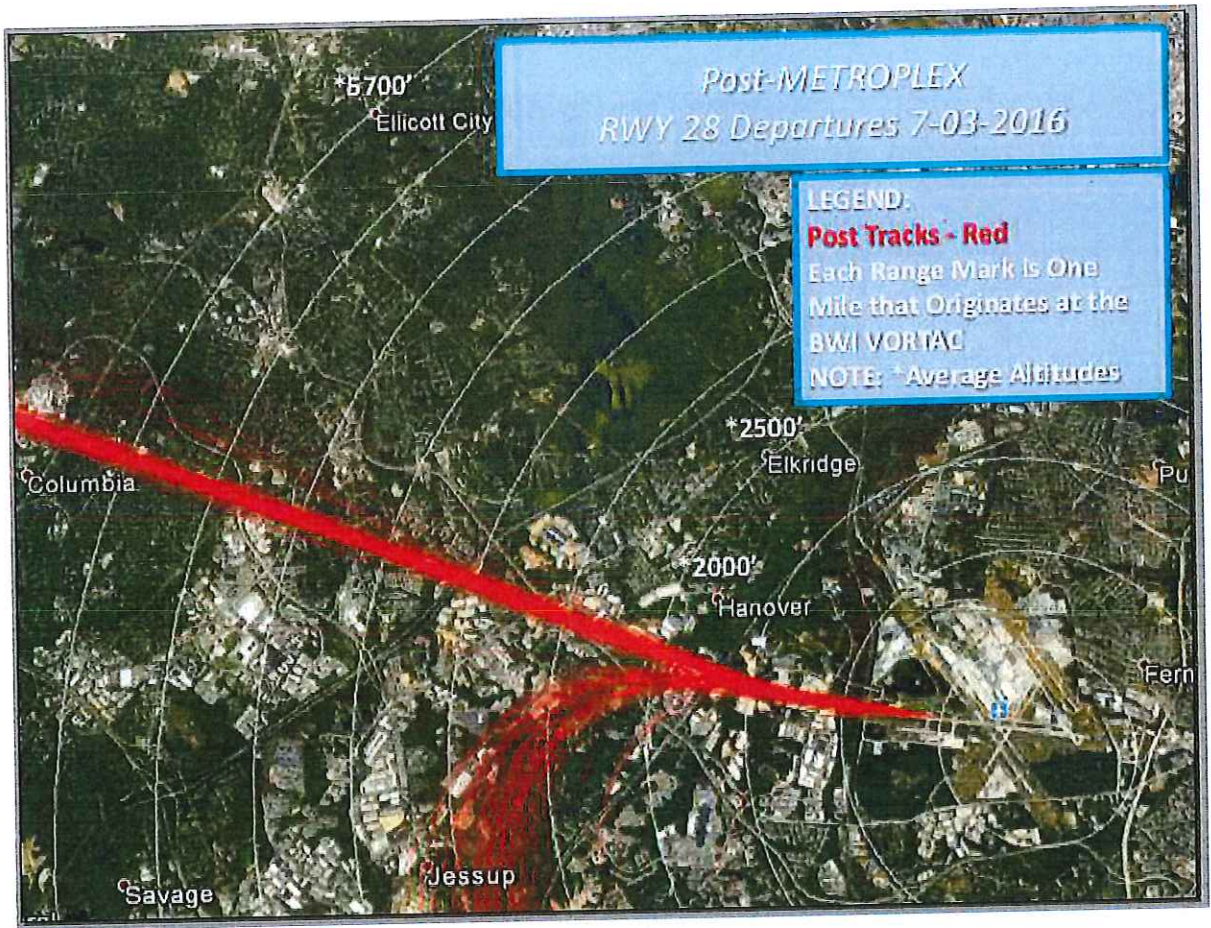
Sincerely,



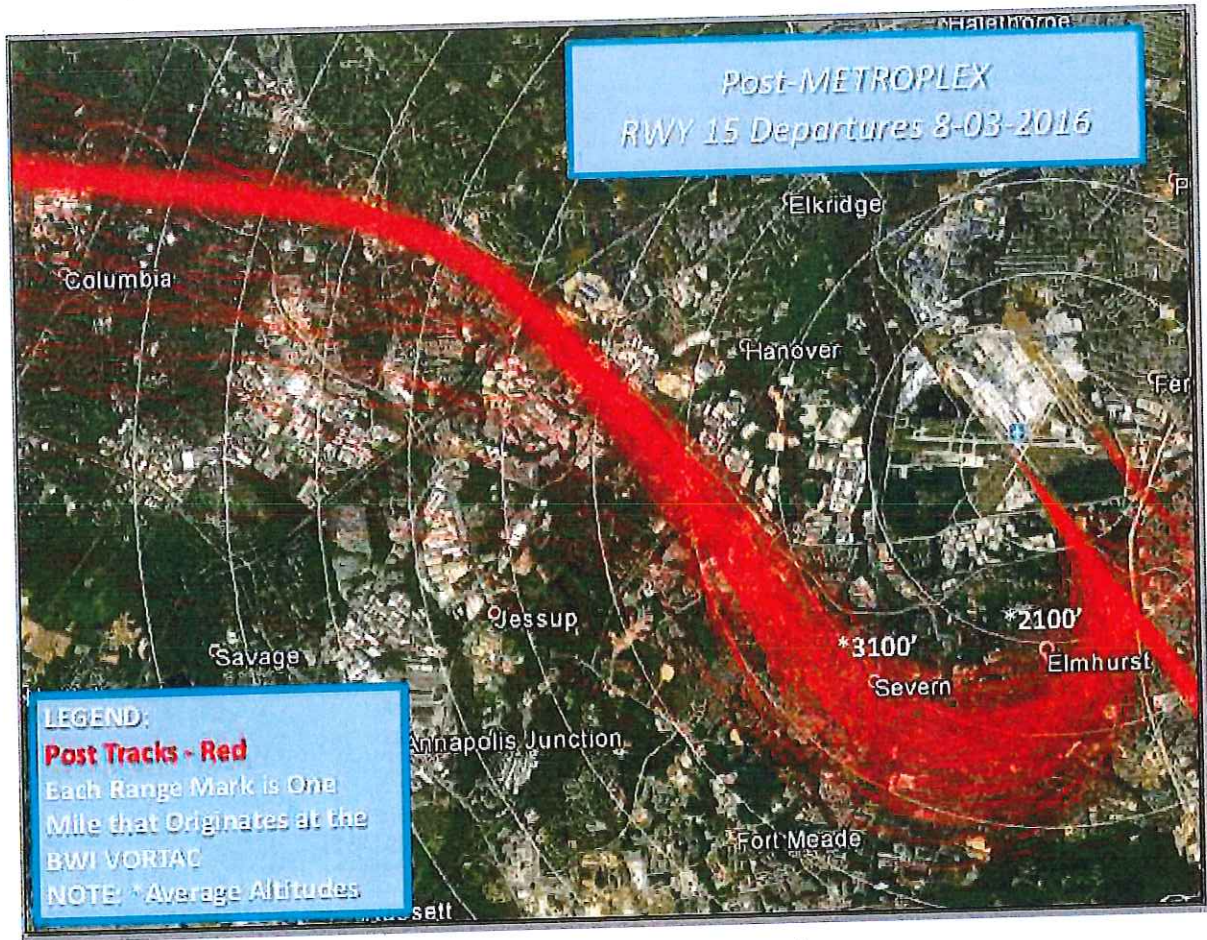
Lawrence J. Hogan, Jr.
Governor

Encl: 2017.05.11 Governor Hogan Letter to Huerta Re NextGen





Post-METROPLEX
RWY 15 Departures 8-03-2016



LEGEND:
Post Tracks - Red
Each Range Mark is One
Mile that Originates at the
BWI VORTAC
NOTE: *Average Altitudes

Attachment 7

DC METROPLEX BWI COMMUNITY ROUNDTABLE
c/o Maryland Department of Transportation Aviation Administration
991 Corporate Boulevard
Linthicum, Maryland 21090

July 25, 2017

Mr. Robert A. Owens
Terminal Assistant District Manager
Capital District
Federal Aviation Administration
800 Independence Ave SW
Washington DC 20591

Re: Operational Remedial Measures Related to BWI Community Roundtable
Status Quo Ante Resolution

Dear Robert:

Thank you and Scott Proudfoot for your presentation on behalf of the FAA at the BWI Community Roundtable meeting on July 18, 2017. At the meeting, three remedial actions were discussed that the FAA could pursue while the FAA PBN Working Group develops changes in instrument flight procedures and other remedial actions are considered in response to the Roundtable's *status quo ante* resolution and request submitted to the FAA on March 31, 2017:

(a) On departures from BWI Airport, seek the waiver you described during your presentation to the Roundtable that would allow air traffic controllers to vector aircraft to recreate some of the flight path dispersion indicated on the attached FAA diagrams, and train and instruct controllers to do so;

(b) On arrivals to BWI Airport, revert to air traffic controllers vectoring aircraft on a course to the line of intercept (i.e., final approach course) rather than vectoring to a fixed way point, with the objective of recreating flight path dispersion of which the attached FAA diagrams are indicative. Controllers would not vector aircraft to fixed way points on arrivals;

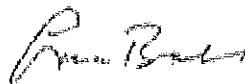
(c) With respect to aircraft altitudes, FAA would train controllers and coordinate with airlines, making them aware of the noise, vibration and other harmful effects thrust upon BWI community residents by low-flying aircraft, and request controllers and airlines maintain aircraft on the glide slope intercept altitudes out to 10 DME and, beyond 10 DME, maintain altitudes of at least 4000 feet, absent a compelling reason to the contrary (e.g., maintaining separation).

As we discussed, the Roundtable hereby requests that the FAA implement these measures as soon as possible. The Roundtable also inquires whether it is possible for controllers to instruct and require aircraft to achieve and maintain specified altitudes during takeoff and descent and, if so, include that as a measure to be implemented.

We are hopeful that implementing these steps as soon as possible will bring relief to hamed BWI Community residents which is badly needed. The efficacy of these measures can be evaluated while changes to instrument flight procedures are being developed by the FAA PBN Working Group and may factor into required instrument flight procedure changes.

We look forward to the expeditious implementation of these measures.

Very sincerely,

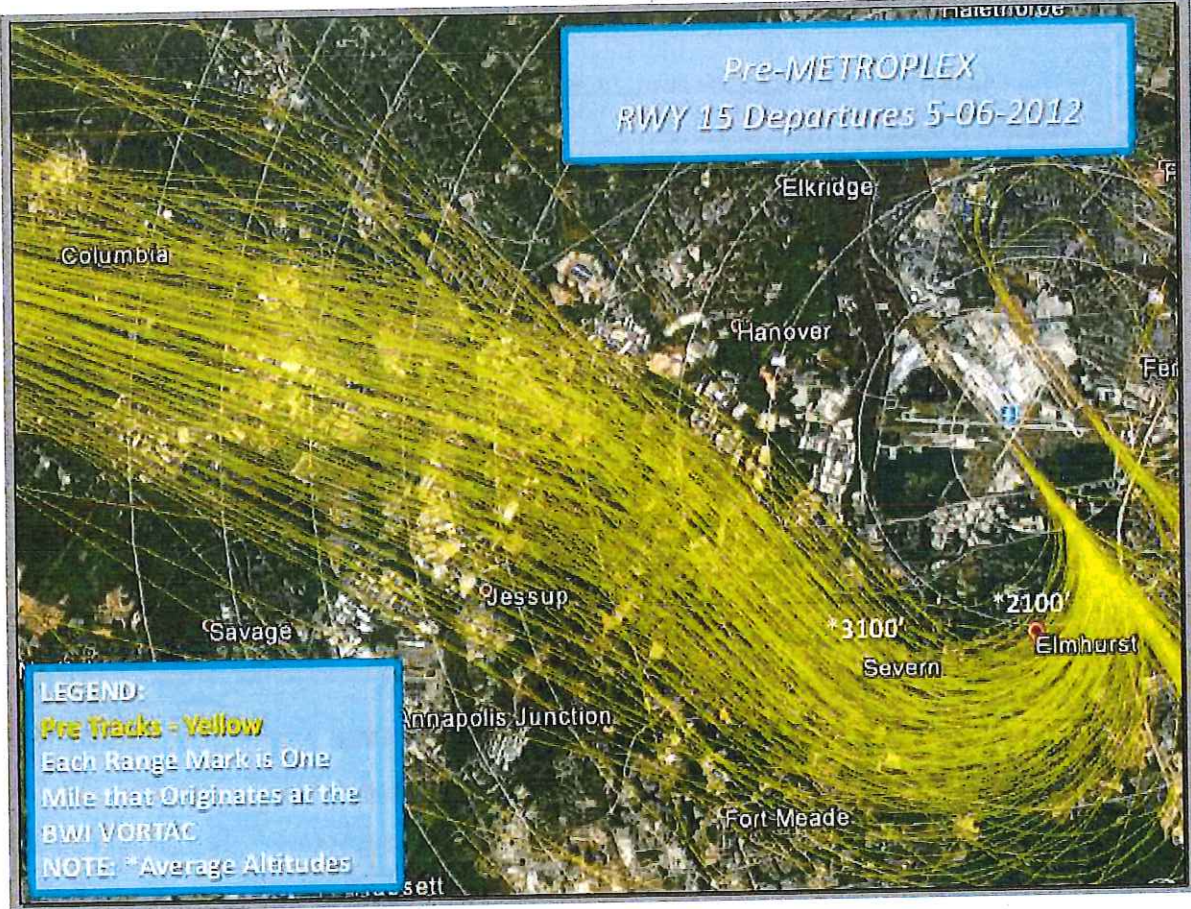


Lance Brasher
Chairman
DC Metroplex BWI Community Roundtable

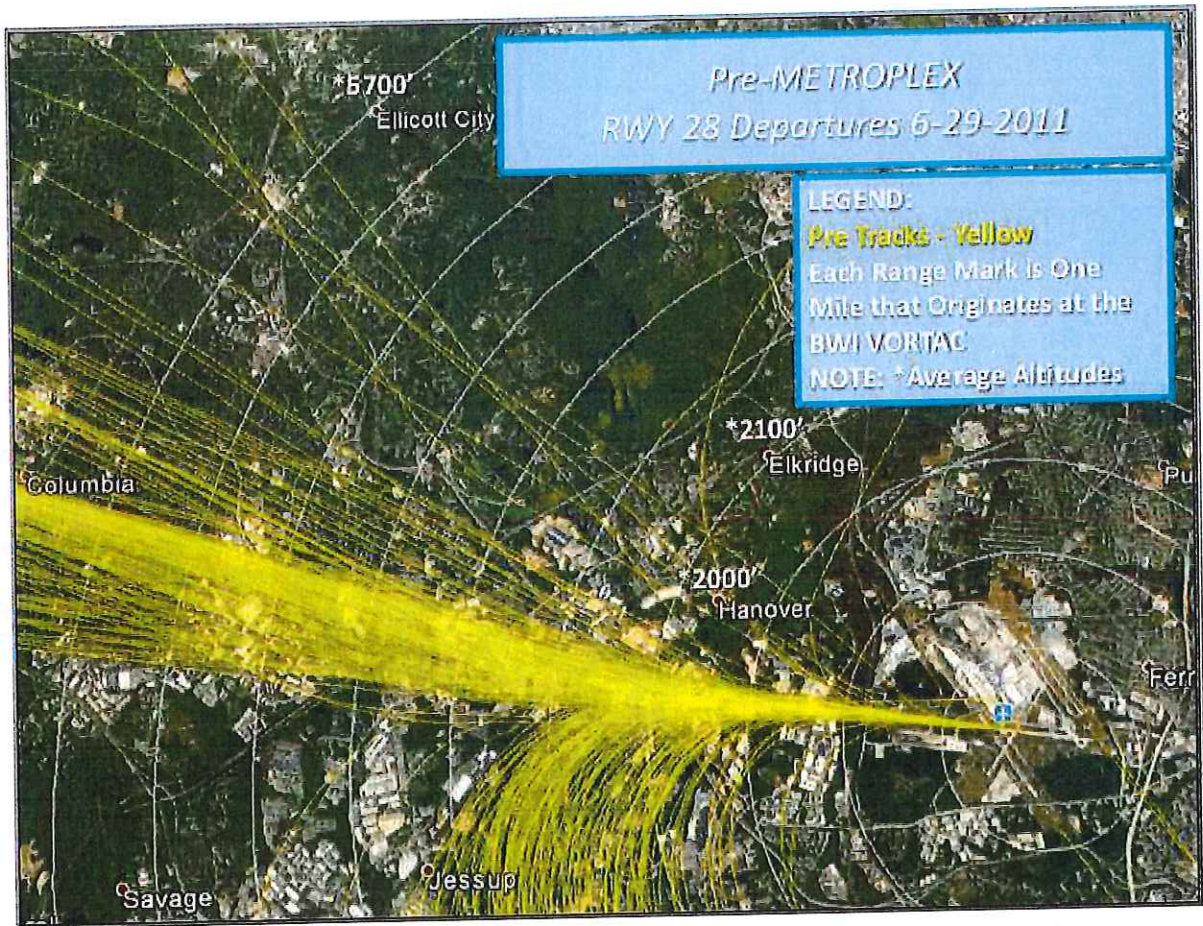
Attachments: FAA Diagrams from FAA BWI Workshop October 27, 2016

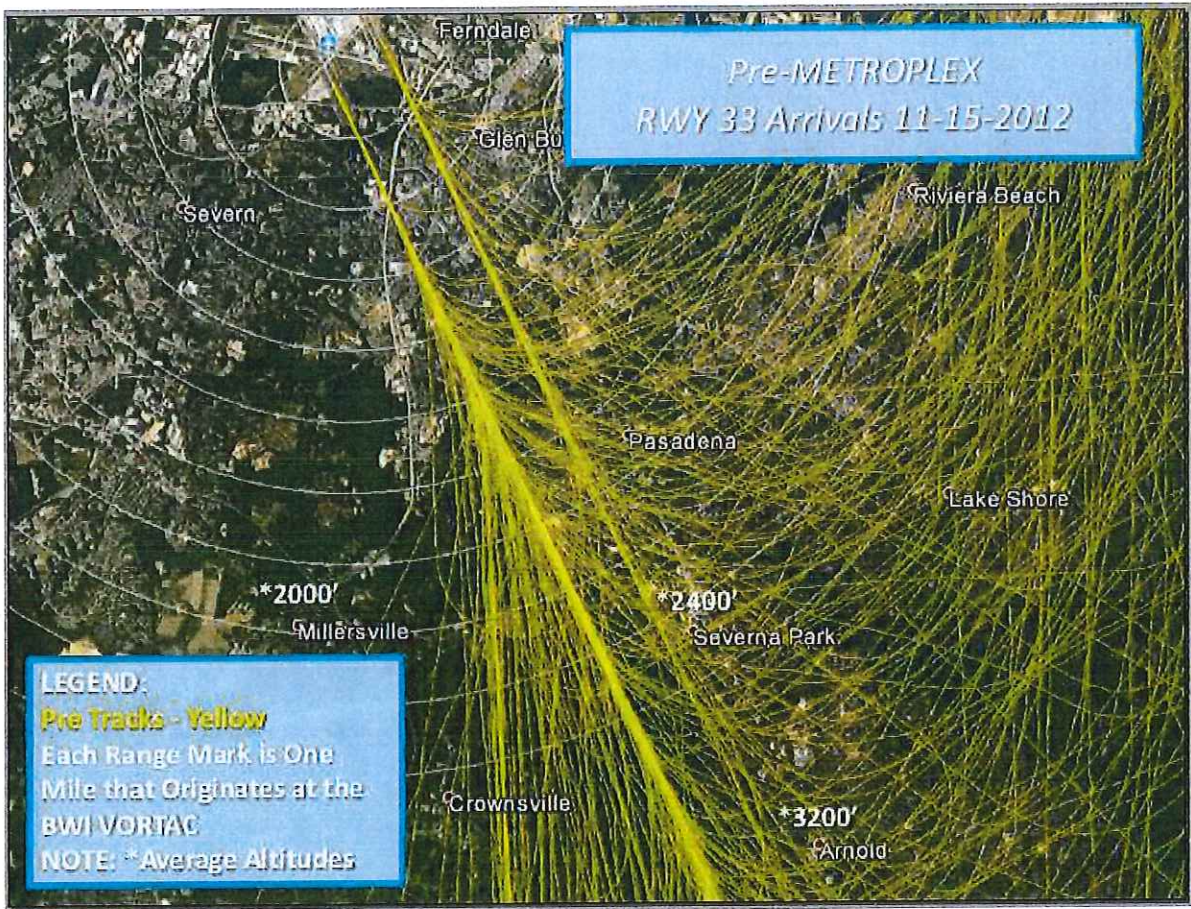
cc: Mr. Christopher Yates, DC Metroplex BWI Community Roundtable Vice
Chair
Ms. Marie Kennington-Gardiner, Regional Administrator, Eastern Region, FAA
Ms. Elizabeth Ray, Vice President, Mission Support Services, FAA
Mr. Paul Shank, P.E., Chief Engineer, Div. of Planning & Engineering, MAA
Ms. Ellen Sample, Director, Office of Real Estate & Noise Abatement, MAA

Pre-METROPLEX
RWY 15 Departures 5-06-2012



LEGEND:
Pre Tracks - Yellow
Each Range Mark is One
Mile that Originates at the
BWI VORTAC
NOTE: * Average Altitudes





DC METROPLEX BWI COMMUNITY ROUNDTABLE
c/o Maryland Department of Transportation Aviation Administration
P.O. Box 8766
BWI Airport, Maryland 21240-0766
January 31, 2018

SUBJECT: 2017 Annual Report of the DC Metroplex BWI Community Roundtable

INTRODUCTION

The DC Metroplex BWI Community Roundtable members (RT) hereby submit our first Annual Report. This report is required by our charter with the Maryland Department of Transportation Aviation Administration (MAA). It includes the following topics: history, 2017 Roundtable meeting dates, current BWI operations – understanding the problem, RT request to date and the Federal Aviation Administration's (FAA) responses, RT's challenges in carrying out its obligations, possible solutions and conclusion.

HISTORY

The BWI Roundtable was requested by the FAA and formed by the MAA. In monthly meetings with the FAA, the Roundtable has sought solutions for the harmful effects brought about by the implementation of the DC Metroplex/ NEXTGEN scheme.

During our first meeting, held on March 21st, 2017, our Roundtable unanimously adopted the following resolution on an urgent basis:

The DC Metroplex BWI Community Roundtable requests and recommends that the FAA immediately revert to flight paths and procedures that were in place prior to the implementation of NEXTGEN and the DC Metroplex plan. They will provide urgent relief to residents adversely affected by these new flight paths and procedures. While a more deliberate and public-facing process to develop and implement NEXTGEN and a DC Metroplex plan is undertaken.

We have not wavered from this request to the FAA. Although, we have acknowledged that reversion may be "mimicked" using current or new technology.

The Roundtable meetings have consistently given FAA and MAA representatives a concise picture of the crushing impact that the NEXTGEN/DC Metroplex plan has had on Maryland residents living under current flight paths. Each meeting of the Roundtable involves technical discussions, presentations, as well as a public comment section. Individual homeowners have often given poignant and arresting descriptions of the damage being done to their lives, health, and properties. Not to mention their belief in government has changed as a result of how the federal and state governments allowed NEXTGEN to be implemented without any warning of, or protection from, the far reaching and life changing nature of it all. Many believe they are ambushed, abused, and abandoned by their government(s).

2017 ROUNDTABLE MEETINGS DATES

The Roundtable has met as a working body on the following dates: March 21, 2017, April 18, May 16, 2017, June 20, 2017, July 18, 2017, August 22, 2017, September 19, 2017, October 17, 2017, November 7, 2017, December 5, 2017, January 16, 2018

The full agenda and presentations are on the MAA website:

<http://maacommunityrelations.com/content/anznoiseupdate/dcroundtablecalendar.php>

Two Roundtable members attended the initial Technical Interchange Meeting of the FAA's PBN Working Group in Linthicum on August 10th, one in person and one by conference call. The PBN Working Group had been announced by the FAA at our June 20th meeting as the primary interdisciplinary vehicle within the FAA for addressing NEXTGEN design/redesign issues in the DC Metroplex.

Additionally, three Roundtable members visited the FAA's Potomac TRACON facility, which is responsible for air traffic operations in the DC Metroplex, in Virginia on December 7th, 2017,

CURRENT BWI OPERATIONS – UNDERSTANDING THE PROBLEM

The Roundtable has spent a large amount of time understanding the nature of the problem and has had to push very hard to get the FAA and MAA to describe what is happening in the BWI airspace. It is clear to residents that since the implementation of the NEXTGEN Performance Based Navigation (PBN) Air Traffic Control (ATC) system at BWI Marshall International Airport (BWI) there has been a drastic and unacceptable increase in the frequency, density and concentration of aircraft and noise over limited geography. Previously unaffected communities are now experiencing high volumes of aircrafts flying new and concentrated paths. We believe that this has a direct detriment on public health, the environment, and individual property values of residents under these new flight paths.

Prior to NEXTGEN, the ATC model utilized "vectoring" to allow for proper spacing and safety buffers between aircraft. Locally, this resulted in the dispersed, and noncontroversial, airplane operations at BWI. With the introduction of NEXTGEN vectoring, although still available, is no longer used in routine practice. Rather, Global Positioning System (GPS) aligned "waypoints" are used to create replicable procedures and standardized flight paths. This approach increases the predictability of operations and reduces pilot/ATC interaction; thereby potentially increasing safety. It also results in a continuous and disturbing number of planes traversing the exact same geography day-in and day out. Which is creating a nuisance for some and a painful, unbearable burden for others.

During the course of our education in the causes of the new noise problem, we have recognized that issues can be grouped into two main categories: departures and arrivals.

Departures (Image 1 provides a BWI runway map):

Issues have been identified for the two departure runways as follows:

Runway 28:

Flights departing from RWY 28, represent approximately 70% of all annual BWI westbound departures these all turn right immediately after takeoff which causes a significant increase in noise over Hanover, Elkridge, Columbia and Ellicott City. Prior to NextGen these areas had not previously experienced noticeable levels of plane noise. The turn takes place at approximately 800 ft. above ground level, which appears to be in contradiction of the FAA's Environmental Assessment required for the implementation of NEXGEN in the DC Metroplex. The assessment states that NEXGEN would result in no changes to flight patterns under 3000 ft. above ground level. Flights leaving RWY 28 heading south, approximately 30% of all departures, have been moved further west, concentrating noise over Odenton.

Runway 15R:

PBN procedures have led to much tighter turns off of RWY 15R, concentrating noise from low flying planes over Severn, Maryland. These planes continue along the path previously described for RWY 28 departures, concentrating noise over the previously mentioned Howard County communities.

Arrivals (Attachment 1 provides a BWI runway map):

We have been told that ATC is issuing a greater number of visual approach clearances to pilots and that approaching aircraft are being cleared directly to PBN waypoints. Both of these ATC procedures were enabled by the implementation of the NEXGEN system and have resulted in destructive noise in communities that previously were not impacted by aircraft noise. Aircraft are flying too low and too loud along the entire Annapolis peninsula and population centers of Anne Arundel County. These issues also affect Baltimore and Howard Counties but to a lesser degree due to the dominant wind direction-based nature of arrival and departure air operations at BWI.

Issues have been identified for the two main arrival runways as follows:

Runway 33L:

RWY 33L is used for approximately 70% of BWI arrivals. As stated by FAA operations representatives for BWI approach control, aircraft are being cleared direct to the PBN waypoints to RWY 33L as opposed to vectored sequencing along the entire final approach course. The lack of vectoring has concentrated these aircraft onto specific areas and caused repetitive paths over major population centers along the Annapolis peninsula. Resulting in the introduction of unacceptable aircraft density and frequency in the same airspace over the same populations. In the case of at least one of the waypoints over Crownsville, titled SPLAT by the FAA, there were very few planes using this waypoint prior to the implementation of the DC Metroplex/ NEXGEN project, but is now a major "highway" for BWI arrivals.

As further stated by FAA operations representatives for BWI approach control, the frequent ATC procedure of clearing aircraft for visual approaches has had the effect of alleviating pilots' obligation to comply with published arrival and approach procedure altitudes. Which results in much lower flying aircraft from as far out on arrival as the RAVNN waypoint to the northeast of

Deale. This has directly translated into an unacceptably lower altitude for regular flight operations across the entire Annapolis peninsula and the final approach corridor into 33L. Not to mention these approaches are lower than IFR standard glideslope intercept altitudes. In many instances the MAA has catalogued of planes flying far below 3,000 ft. above ground level in both Anne Arundel and Howard Counties.

Runway 10:

RWY 10 is used for approximately 30% of BWI arrivals, primarily for the airport's "East Flow" operations. All of the detrimental issues identified for RWY 33L also exist for RWY 10, with high concentrations of loud, low flying planes over Ellicott City and Columbia, where few if any existed before.

ROUNDTABLE REQUESTS TO DATE AND FAA RESPONSES

The BWI Roundtable has made the following three major requests of the FAA and received the corresponding responses:

1. *March 31, 2017 request:* To the FAA Administrator following our March 21st, 2017 resolution for the FAA to revert to pre-DC Metroplex/NEXTGEN flights and procedures.

FAA response: The FAA responded in a letter dated May 12th, 2017 from Lynn Ray, VP Mission Support Services, that reversion could not happen immediately because the procedures no longer existed. But that the FAA was committed to giving full consideration to our request. At the June 20th meeting the FAA presented its preliminary plan for moving both RWY 28 and RWY 15R departure flight paths to notional zones. But they offered nothing with respect to dispersion, altitude, or arrivals.

2. *July 25, 2017 request:* To Robert Owen, Assistant District Manager, for the FAA to implement near-term procedures to increase altitude and, by re-instating vectoring, recreate dispersion. Robert Owen stated at our July 18th meeting that these procedures were feasible and could be implemented readily upon receipt of FAA authorization. Lynn Ray repeatedly stated that these operational procedures were within Robert Owen's area of authority because they did not involve changes in instrument flight procedures.

FAA response: Despite repeated requests, we never received a written response to our July 25th, 2017 letter. However, shortly following the letter on a conference call with Lynn Ray and Robert Owen, Robert Owen explained to the chair of the RT, that he planned to meet with controllers and other relevant persons to raise awareness of altitude and dispersion issues. Essentially implementing operational procedures on an informal basis. Robert Owen later communicated that such informal steps would first require formal steps be taken to comply with the National Environmental Protection Act (NEPA). At a planning meeting with the MAA for the PBN Working Group meetings, the FAA provided slides that identified the Roundtable's concerns about altitude and dispersion while also setting tentative plans for shifting RWY 28 and RWY 15R departures to notional zones.

3. *September 8, 2017 request:* Reversion on flight paths and vectoring to recreate dispersion and requesting procedures be implemented so that arriving, departing, and crossing aircraft fly at the highest safe altitude. We also listed all of our concerns to give the PBN Working Group necessary information to guide their work. We were subsequently unofficially told by various PBN Working Group members that our letter had not been shared with them and that they were therefore unaware of the totality of our concerns.

FAA response: Jodi McCarthy, new VP mission support services, wrote in a letter on November 21st letter. That the FAA is pleased to consider community concerns and proposed solutions. Yet there was no explanation as to why the FAA cannot go back to the “conventional system”. Additionally, the PBN Working Group stated that the FAA would consider ways to increase dispersion while making no informative comment on altitude. They claim the FAA was committed to transparency.

Finally, at our January 16th, 2017 meeting we were informed by Paul Shank, Chief Engineer for the MAA, that the PBN Working Group work was nearly complete. Done without any additional changes to design of procedures for the BWI airspace aside from the shifts of departing flights from RWY 28 and RWY15R into the previously described notional zones.

RT'S CHALLENGES IN CARRYING OUT ITS OBLIGATIONS

The RT has been unable to effect significant change to the NEXTGEN/DC Metroplex plan. While the FAA’s proposed changes to departures from RWY 28 and RWY 10 are expected to be an improvement over the current paths. We have made no progress on arrivals, raising altitudes, or restoring dispersion. We have recently identified certain challenges in carrying out our obligations. They are as follows:

- The FAA essentially disowns responsibility for the noise and other environmental harm it causes by its decisions and refers these matters to the local airport operator. There is no federal legislative mandate requiring the FAA to consider or address the “complete” noise effect of its NEXTGEN plan or even to work “in good faith” with affected communities to reduce the noise to levels that are compatible with established residential development.
- The Noise Standards used by the FAA, which were adopted in 1971, are outdated and do not reflect the precise and unremitting effects of concentrated flight paths over limited geography created by modern technology. The FAA asserts that it is in compliance with all noise and other environmental requirements, yet thousands of airport community residents around the country are harmed by the adverse environmental effects of NEXTGEN. Clearly the legal standards are inadequate to protect citizens from the FAA’s actions.
- The FAA’s decision-making and reasoning are opaque and remote.
- The timeframes for taking effective action to alter the NEXTGEN system, even in small ways, are quite short.

- The RT was not created until 2 years into the NEXTGEN implementation process at BWI, after the initial designs and studies had been completed.
- The FAA has refused to redesign the current flight paths to increase airplane dispersion or raise altitudes.
- The RT has been unable to get clear information on the NEXTGEN flight paths that is understandable to regular citizens, such as RT members. For instance, maps given to the RT continually have no recognizable geographic or topographical features on them. This makes it difficult to ascertain the effects of the paths on the residents of the legislative districts represented by the RT members.
- Other requests to the MAA and FAA have been ignored or only partially addressed. The RT has made an effort to organize and prioritize the many requests for information to both the FAA and MAA, with very limited success in getting useful information.
- The RT's ability to influence the FAA is extremely limited and consists largely of "imploing" the FAA to solve the problem it created.

POTENTIAL SOLUTIONS

The following are possible actions that the RT could take to partially meet the challenges identified:

- *Specific requests of the FAA.* While the FAA has denied key elements of our general request for reversion and appears to have shown little initiative in developing solutions to solve problems that the RT has identified, Jodi McCarthy states in her letter that the FAA will consider community requests. This may put the RT in the unenviable and politically untenable position of making proposals that benefit certain communities, while harming others. This pitting of communities against one another in order to push the noise around is abhorrent.
- *Greater political support; remedial legislation.* Seek legislation and other political support at the federal, state and local levels to compel the FAA to act. The FAA reauthorization bill may be the vehicle for a new federal law. The BWI RT has drafted proposed legislation; it is being reviewed by RT members and members of other affected communities near NEXTGEN airports, including DCA, Logan, LaGuardia, as well as Senator Van Hollen's office.
- *Maryland action to compel the FAA.* Encourage the state of Maryland to proceed vigorously with a lawsuit to compel the FAA to correct the harm that Maryland residents who live under or near the concentrated flight paths are suffering from and give the RT's full support however we can.
- *FAA processes.* Complain vigorously to the FAA regarding the harms we are suffering from and comment on any procedures/rulemakings wherever possible.

- *New PBN Working Group.* The RT should work with the FAA to convene another version of the PBN Working Group to address issues such as dispersion, altitudes, and arrivals that were left unaddressed by the current group. We have been told that the FAA is out of budget for a new effort; perhaps our federal delegation can assist.
- *MAA and airport support.* Given that the FAA has largely not addressed the problems we are facing, consider petitioning the MAA, state, and local governments to require BWI airport to among other things (i) refrain from expanding facilities or operations that could lead to an increase in frequency of aircraft flights or noisier flights, (ii) reduce and restrict hours of operations to mitigate the adverse effect of the FAA's actions, (iii) demonstrate national leadership by applying a "best practices" approach and take all actions to reduce noise from departing and arriving aircraft and (iv) when conducting environmental reviews, not rely on outdated and ineffective noise and other legal standards; but apply more stringent standards relevant to the BWI communities and the nature of air traffic at BWI.
- *Airline help.* Petition the airlines to take actions within their control to reduce noise, whether through operational steps, fleet mix, or otherwise.

CONCLUSION

The DC Metroplex BWI Community Roundtable was created at the insistence of the FAA to act as the vehicle for addressing the harmful noise issues associated with the NEXTGEN/DC Metroplex project. Unfortunately, it appears to be a largely unsatisfactory approach. At this time, we believe there must be a change in approach in order to achieve broader results.

Without a major change in federal legislation, or a successful lawsuit, that creates mandatory incentives for the FAA to act mitigate the situation. The RT will fail in its goal of returning to a reasonable facsimile of the noncontroversial airport operations that existed at BWI prior to the implementation of the NEXTGEN/DC Metroplex project.

Despite the very limited positive outcome of the RT to date, the RT still has important work to do. The FAA will return to our March 2018 meeting with a full description of the changes that they are making to the departures from RWY 28 and RWY15R as a result of the PBN Working Group process. The RT will be the primary vehicle for community reaction to those proposed changes, and will be required to monitor progress well into final implementation of the new procedures, expected sometime in mid-2019.

It is also foreseeable that the RT will continue to work with the MAA and the airlines on operational changes within their control that may mitigate the noise effects of NEXTGEN at BWI.

The RT has gained valuable knowledge of the technical components of the new noise problem at the airport caused by NEXTGEN's implementation per the FAA. We believe that knowledge will be important as federal, state and local decision makers take the lead and continue to grapple with this issue. We hope that the RT can play a key supporting role in that effort.

Finally, we wish to conclude this report by reiterating that, at the BWI Roundtable meetings, numerous community residents harmed by the situation at BWI speak out publicly about their sorry predicament, the substantial negative impact on their health and mental wellbeing, their rest, their family, their ability to function at work, their use and enjoyment of their homes, the value of their single largest personal investment and their communities. This situation at BWI is not one where the harm is a potential one or one that may occur in the future. The harm is real and Maryland residents are bearing this harm now. Our government must act urgently to protect its citizens and resolve this harm.

Attachments

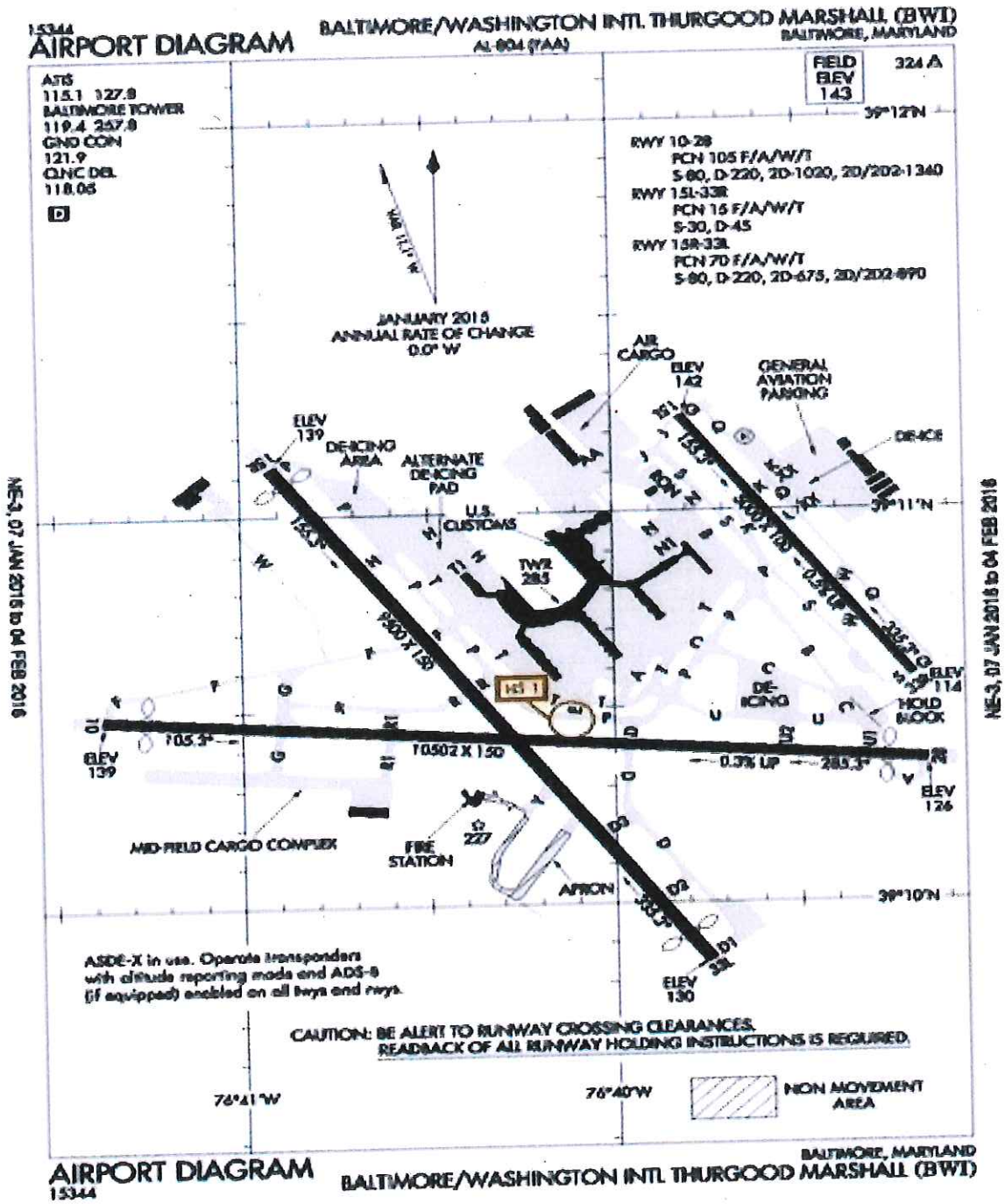
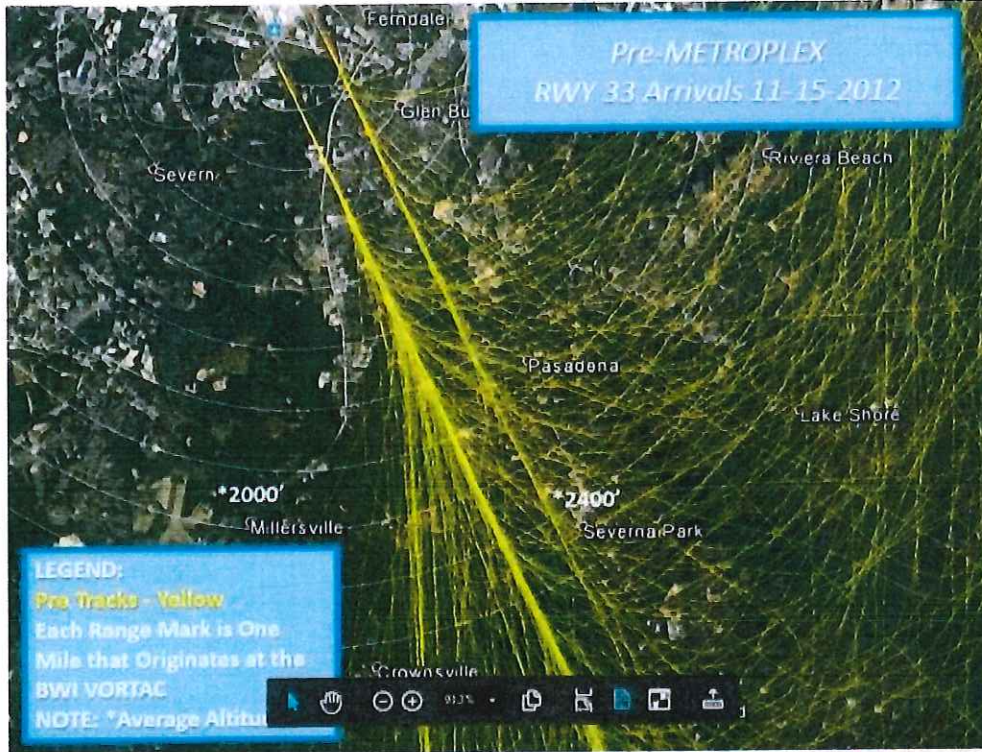


Image 1: BWI THURGOOD MARSHALL AIRPORT DIAGRAM

Arrivals into RWY 33L (Pre)



BWI Roundtable
April 18, 2017

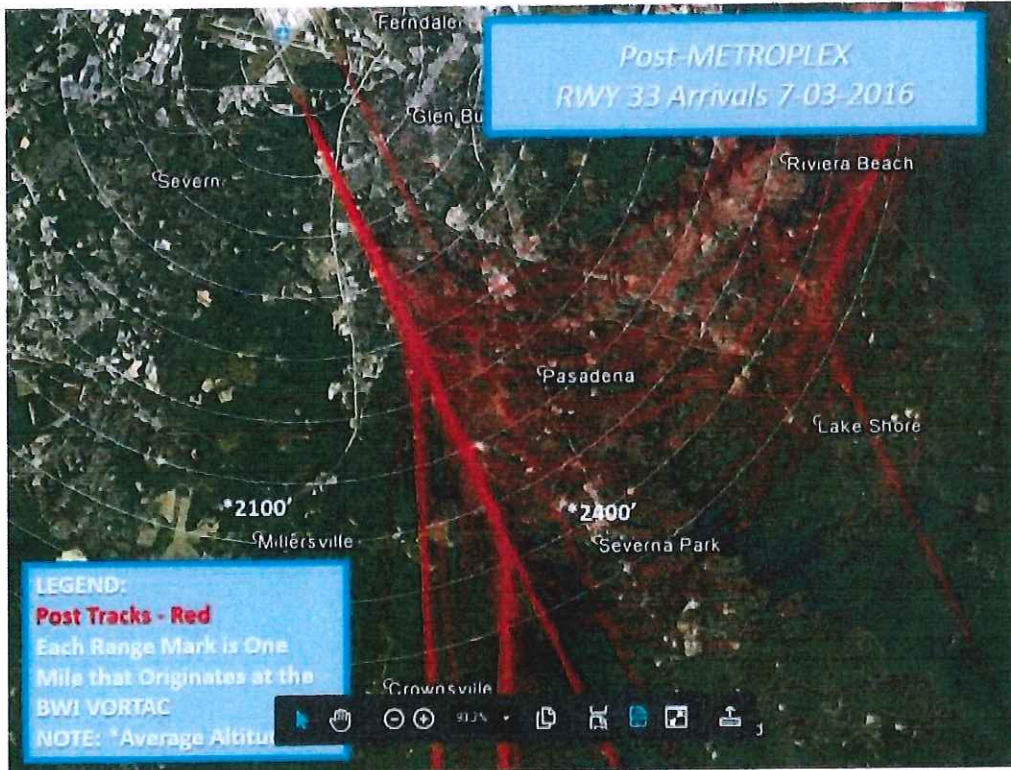


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Image 2: BWI ARRIVAL 33L PRE-NEXTGEN

Arrivals into RWY 33L (Post)



BWI Roundtable
April 18, 2017

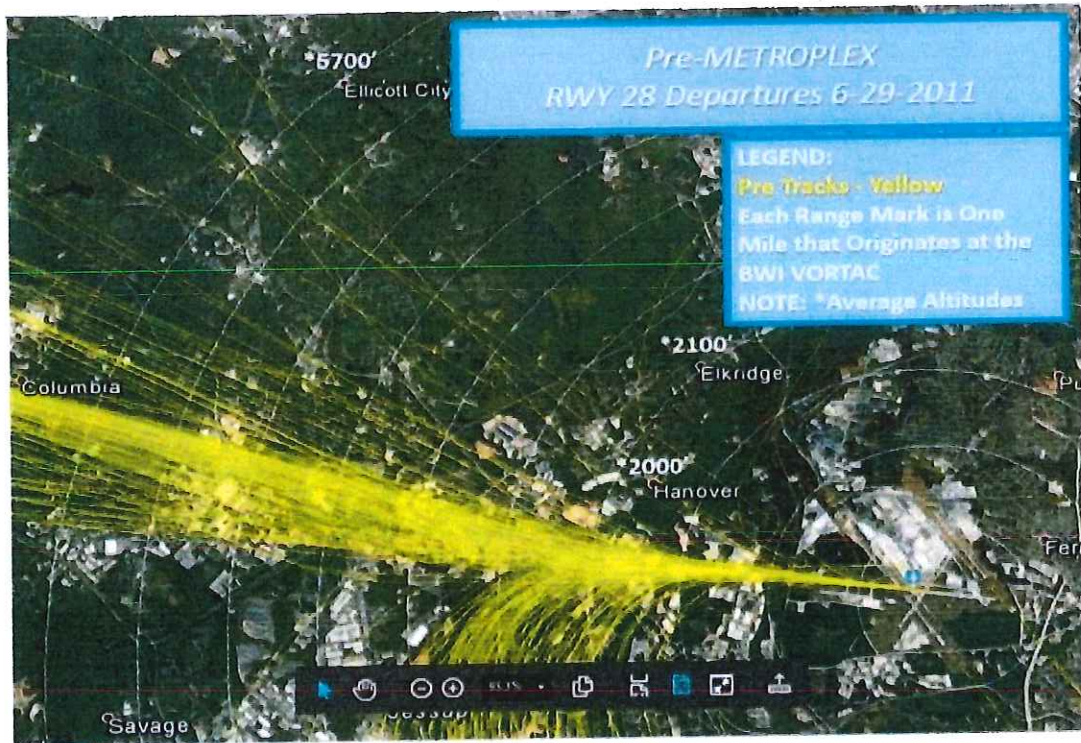


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Administration

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Image 3: BWI ARRIVAL 33L POST-NEXTGEN

TERPZ SID - RWY 28 (Pre)



BWI Roundtable
April 18, 2017



Federal Aviation
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Image 4: BWI DEPARTURE 28 PRE-NEXTGEN

TERPZ SID - RWY 28 (Post)



BWI Roundtable
April 18, 2017

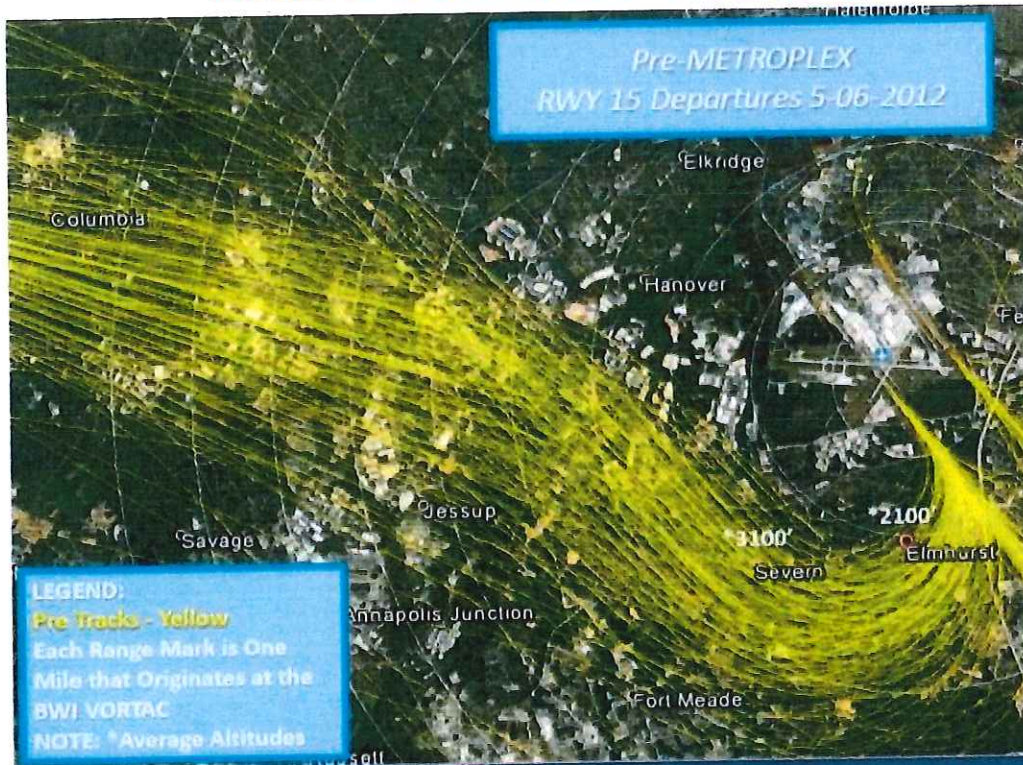


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Administration

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Image 5: BWI DEPARTURE 28 POST-NEXTGEN

TERPZ SID - RWY 15R (Pre)



BWI Roundtable
April 18, 2017

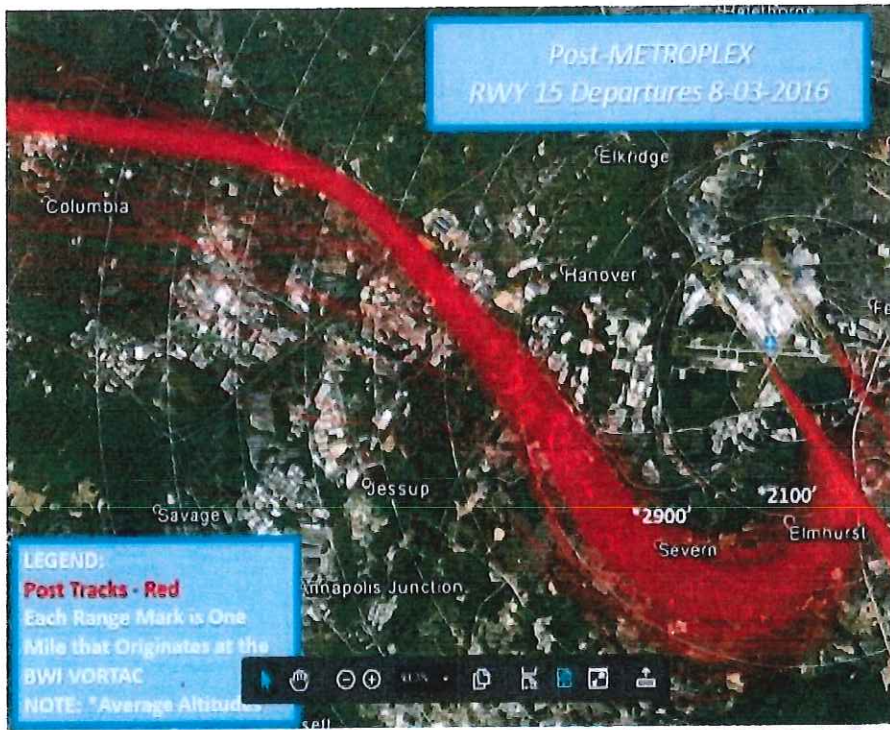


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Image 6: BWI DEPARTURE 15R PRE-NEXTGEN

TERPZ SID - RWY 15R (Post)



BWI Roundtable
April 18, 2017



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Administration

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Image 7: BWI DEPARTURE 15R POST-NEXTGEN

EXHIBIT D

BWI Traffic Analysis and Notional Paths

To: DC Metroplex BWI Community
Roundtable Working Group

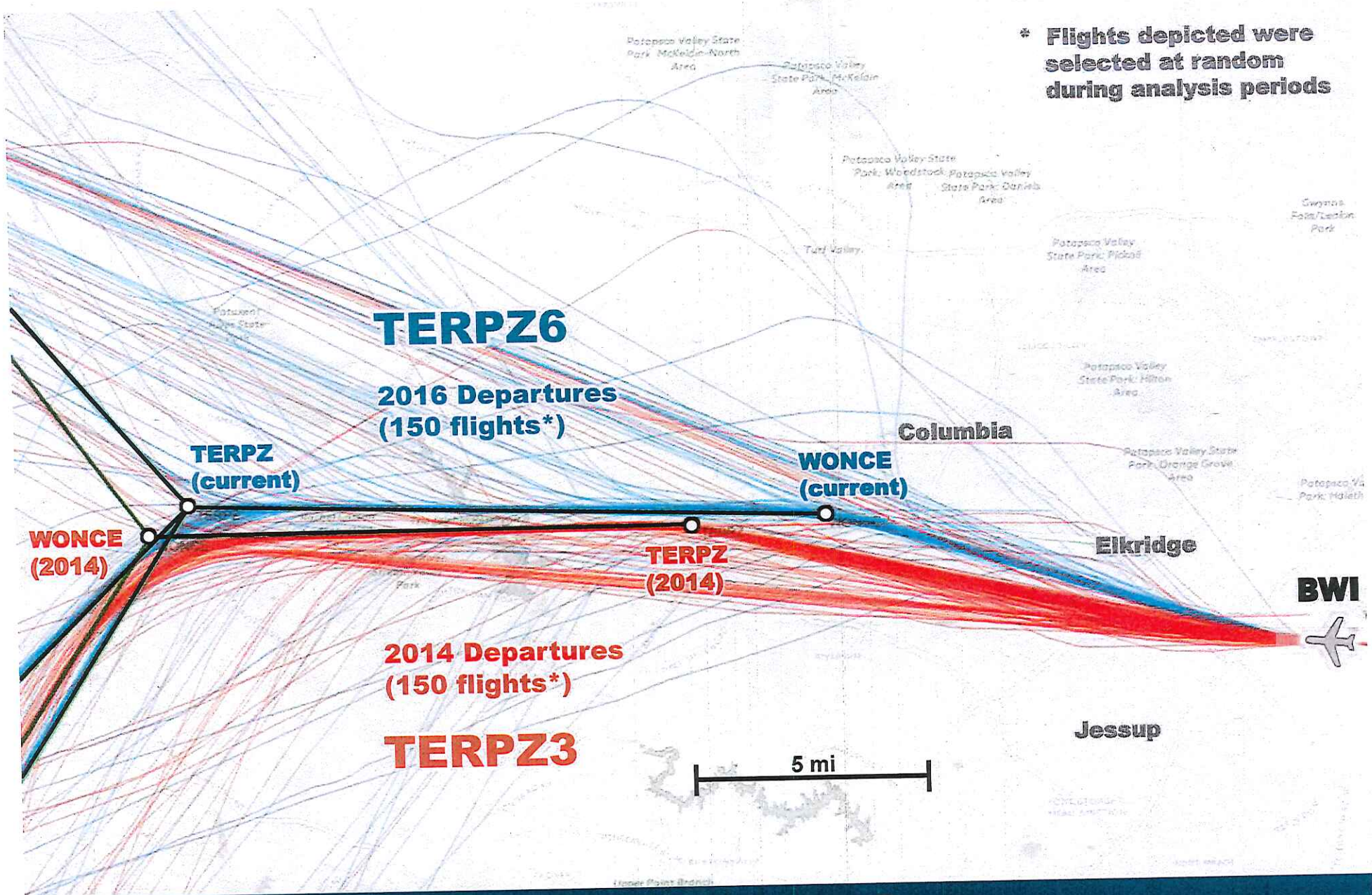
Date: June 20, 2017

Briefers: John Belk (FAA)
Bennie Hutto (NATCA)



Federal Aviation
Administration

* Flights depicted were selected at random during analysis periods



TERPZ Rwy 28



Federal Aviation Administration

EXHIBIT E



Maryland Aviation Administration

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Ricky D. Smith, Sr.
Executive Director / CEO

CONFERENCE CALL MINUTES

DATE: August 31, 2016

SUBJECT: Conference call with the Federal Aviation Administration (FAA) August 30, 2016 regarding the September 12, 2016 community meeting on the DC Area Metroplex

Participants

- Carmine Gallo - Eastern Regional Administrator, FAA
- Elizabeth (Lynn) Ray - Vice President, Mission Support Services, FAA
- Paul Shank - MAA
- Ellen Sample - MAA

The FAA stated they were not prepared to address the agenda items proposed by the MAA and they do not have the available staff to attend the meeting. The FAA advised they **do** want to support and address the issues and proposed using the September 12th date for a technical exchange between the FAA and MAA. They requested the community meeting be moved to the week of October 24-28, 2016. This additional time would allow the FAA to complete an initial feasibility and have more facts and possibilities to share with the residents.

Our exchange on September 12th would be to review the primary community concerns which are:

- Runway 15 Right departure turns
- Runway 28 departure turns
- Runway 33L arrivals
- Lower altitude arrivals in general

FAA advised that our Noise Abatement Procedures do not exist anymore and the new procedures put in place have interdependent segments so it cannot be just changed back without detailed study.

The FAA will form a Technical Working Group that will include technical personnel from the FAA and would also include technical representatives (pilots) from the Airlines. They did not see the MAA as being a member of the Technical Committee.

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Concurrent with preparation for the October community meeting, the FAA advised MAA to begin setting up a Working Group/Roundtable of community representatives. They suggested the representatives be appointed by elected officials representing the impacted communities. They also suggested the airlines and any other "user groups" (e.g. Tenants/AOPA/NBAA) be invited to join as voting members. The FAA would participate in a supporting role as "Subject Matter Experts" and would not be voting members of the Roundtable. The Roundtable may propose other alternatives besides the ones currently under evaluation. Carmine Gallo noted that one option worth considering was using a "straight climb out to a higher altitude with lower takeoff thrust" before turning on course as any turns made at lower altitudes require more power and therefore generate more noise. The FAA noted that once the conversation starts it generally does not stop there so the Roundtable would need to prioritize the issues to be studied by the FAA. Ms. Ray recommended we contact Ms. Margaret McKeough, Metropolitan Washington Airports Authority (MWAA) COO for a copy of the Bylaws for their Working Group.

Recommendations agreed upon by the Roundtable would then be forwarded to the FAA's Procedures Process Technical Working Group for analysis. The analysis may address DC Area Metroplex issues and could possibly lead to an environmental process depending upon the changes.

They recommended the October meeting be hosted by the MAA, scheduled for a three hour period and set up as a workshop with stations for each of the specific issue. The intent is to provide information and gather feedback. Residents may drop in at any time during that three hour period.

EXHIBIT F



Maryland Aviation Administration

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Ricky D. Smith, Sr.
Executive Director/CEO

October 22, 2015

Mr. Michael P. Huerta
Administrator
Federal Aviation Administration Administrator
800 Independence Ave SW
Washington DC 20591

Dear Mr. Huerta:

Subject: NextGen Procedures at Baltimore/Washington International Thurgood Marshall Airport (BWI Marshall)

In recent months, the Maryland Aviation Administration (MAA) has attended local neighborhood association meetings to report on the status of our runway construction activities being completed as part of the U. S. Congressional mandate for Runway Safety Area (RSA) compliance at commercial service airports. At those meetings, MAA heard citizen complaints about air carrier aircraft noise associated with the closure of Runway 10-18 because of the aforementioned construction. MAA also learned that citizens were upset about the noise associated with the changes in aircraft departure paths and lower altitudes being flown in accordance with the Federal Aviation Administration's (FAA) phased implementation of NextGen. Primarily citizens are troubled by the noise associated with NextGen departure procedures below 3,000 feet Above Ground Level (AGL). They assert that these NextGen changes in departure procedures were not addressed in sufficient detail in the FAA's June 2013 Metroplex Airspace Environmental Assessment and therefore the FAA's subsequent December 2013 Finding of No Significant Impact was improperly issued and not representative of the actual implementation.

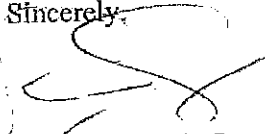
In the course of MAA's review of the FAA's phased implementation of the NextGen departure procedures at BWI Marshall since March of 2015, the MAA also learned that these new procedures do not comply with the MAA prepared, and FAA approved, Noise Compatibility Program (NCP), or our state mandated Noise Abatement Plan (NAP). The NextGen departure procedures differ from the previous procedures in both flight track and altitude requirements for all runway departures below 3,000 feet AGL at BWI Marshall. The FAA approved the flight procedures for BWI Marshall in June of 1990 as part of the NCP and no meaningful changes to those procedures has occurred until now. See FAA's Record of Approval of NCP for BWI Marshall dated June 21, 1990.



Mr. Michael P. Huerta
Page Two

Based upon the foregoing, the MAA requests that the FAA revise the NextGen departure procedures to comply with MAA's NCP and NAP departure procedures. Given the gravity of the present situation, the MAA respectfully requests to be included in the review, and approval, of any further changes in NextGen procedures at BWI Marshall. We look forward to working with you to expeditiously resolve this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ricky D. Smith, Sr.", written over a faint circular stamp or watermark.

Ricky D. Smith, Sr.
Executive Director/CEO

Mr. Michael P. Huerta
Page Three

bcc: Louisa H. Goldstein, Counsel, MAA
Dale Hilliard, Chief of Staff, MAA
Robert J. Sager, Assistant Attorney General, MAA
D. Ellen Sample, Director, Office of Noise and Land Use Compatibility, MAA
Paul L. Shank, P. E., C. M., Chief Engineer, MAA



Ricky D. Smith, Sr.
Executive Director/CEO

April 25, 2016

Mr. Michael P. Huerta
Administrator
Federal Aviation Administration
800 Independence Avenue SW
Washington DC 20591

Dear Mr. Huerta:

Subject: NextGen Procedures at Baltimore/Washington International
Thurgood Marshall Airport (BWI Marshall)

This will acknowledge receipt of your letter dated March 9, 2016 written in response to the Maryland Aviation Administration's (MAA) letter of October 22, 2015. The MAA has shared your letter with representatives of the neighboring communities. MAA's understanding of the issues that continue to concern the residents of the neighboring communities are the noise and visual impacts resulting from the changes in flight paths and altitudes now being flown by aircraft utilizing BWI Marshall. The impacts mentioned in your letter associated with BWI Marshall's on-going construction program are not the issue. The source of the residents' concerns are the changes in the departure paths directly associated with the implementation of the Federal Aviation Administration's (FAA) NextGen departure procedures for Runway 28 and Runway 15R.

Simply put, the FAA's NextGen procedures depart from the long established flight procedures jointly developed by the FAA, the MAA and the communities in June of 1990, as delineated in BWI Marshall's published Noise Abatement Program (NAP) and Federal Aviation Regulation Noise Compatibility Program (NCP). The recently implemented NextGen Terpz 6 departure procedures do not adequately address the communities' request that the FAA respect the NCP and NAP departure procedures. Moreover, it is clear that these changes were not adequately addressed in the FAA's Environmental Assessment (EA).

Specifically, on Runway 15R for departures the recent increase in aircraft altitude from 667' to 850' before turning does not utilize the altitudes previously specified in the NAP. Previously the departure aircraft maintained the runway heading for 1 nautical mile while climbing before turning (per the NAP). The new flight procedures place departing aircraft at lower altitudes and in different flight paths over long established residential communities. Similarly, the Runway 28 departure procedures place departing aircraft along different flight paths and different altitudes than those specified in BWI Marshall's NAP.

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BWI Airport
Maryland 21240-0766

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FACSIMILE
410-850-4729

WEBSITE
www.bwiairport.com

Mr. Michael P. Huerta
Page Two

The communities also assert the environmental impacts associated with these changes in departure paths and altitudes were not addressed in the FAA's EA/FONSI as the EA scope of work was to only study impacts above 3,000 feet. It is important to note that All of the issues associated with the implementation of the NextGen at BWI Marshall relate to impacts occurring below 3,000 feet.

We greatly appreciate your expression of commitment to work with the MAA to reduce aviation noise impacts and have shared your statement with the residents of the affected communities. We too are committed to working with the FAA to resolve this matter. We again reiterate MAA's request that the FAA restore the departure procedures delineated in BWI Marshall's NAP.

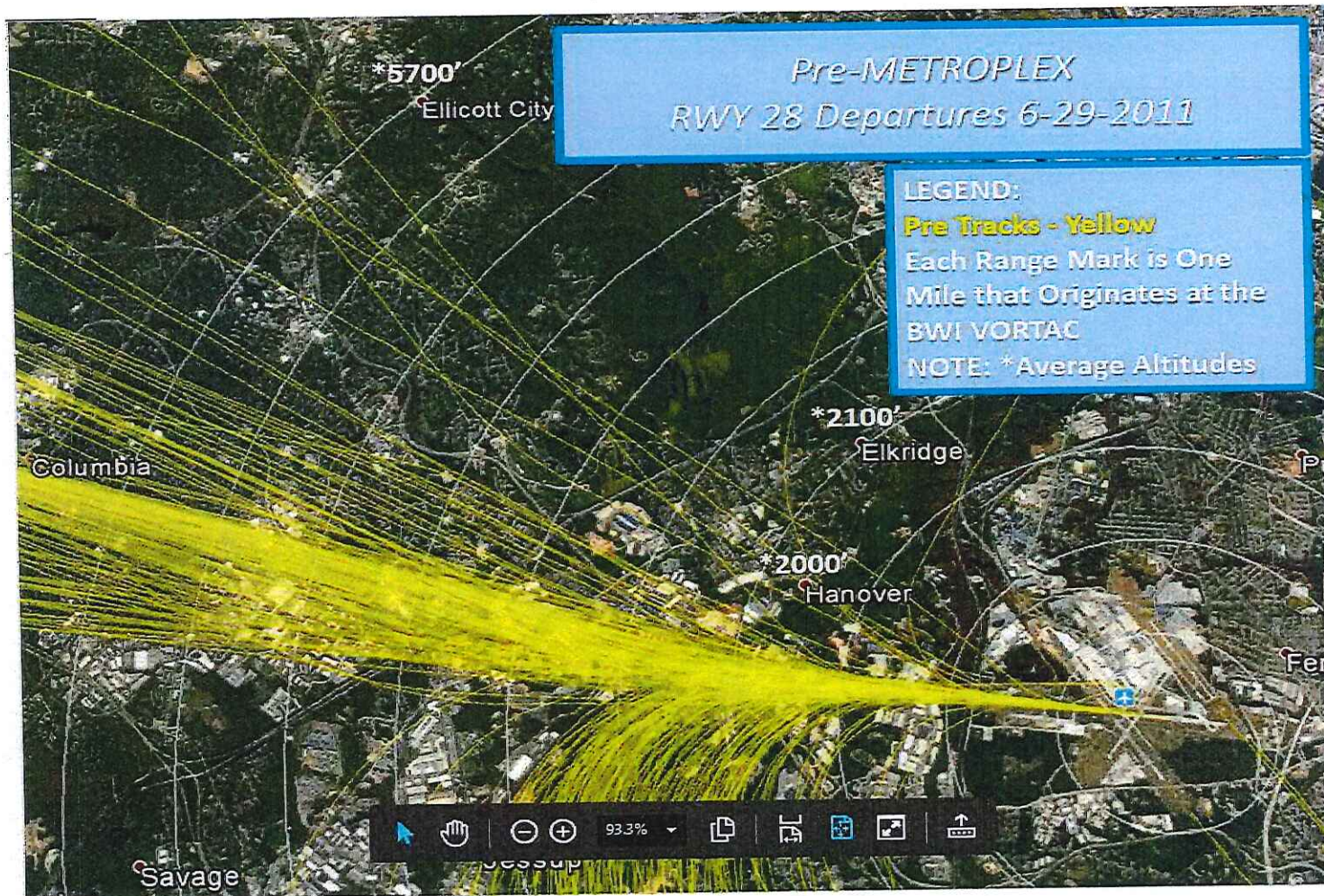
Sincerely,



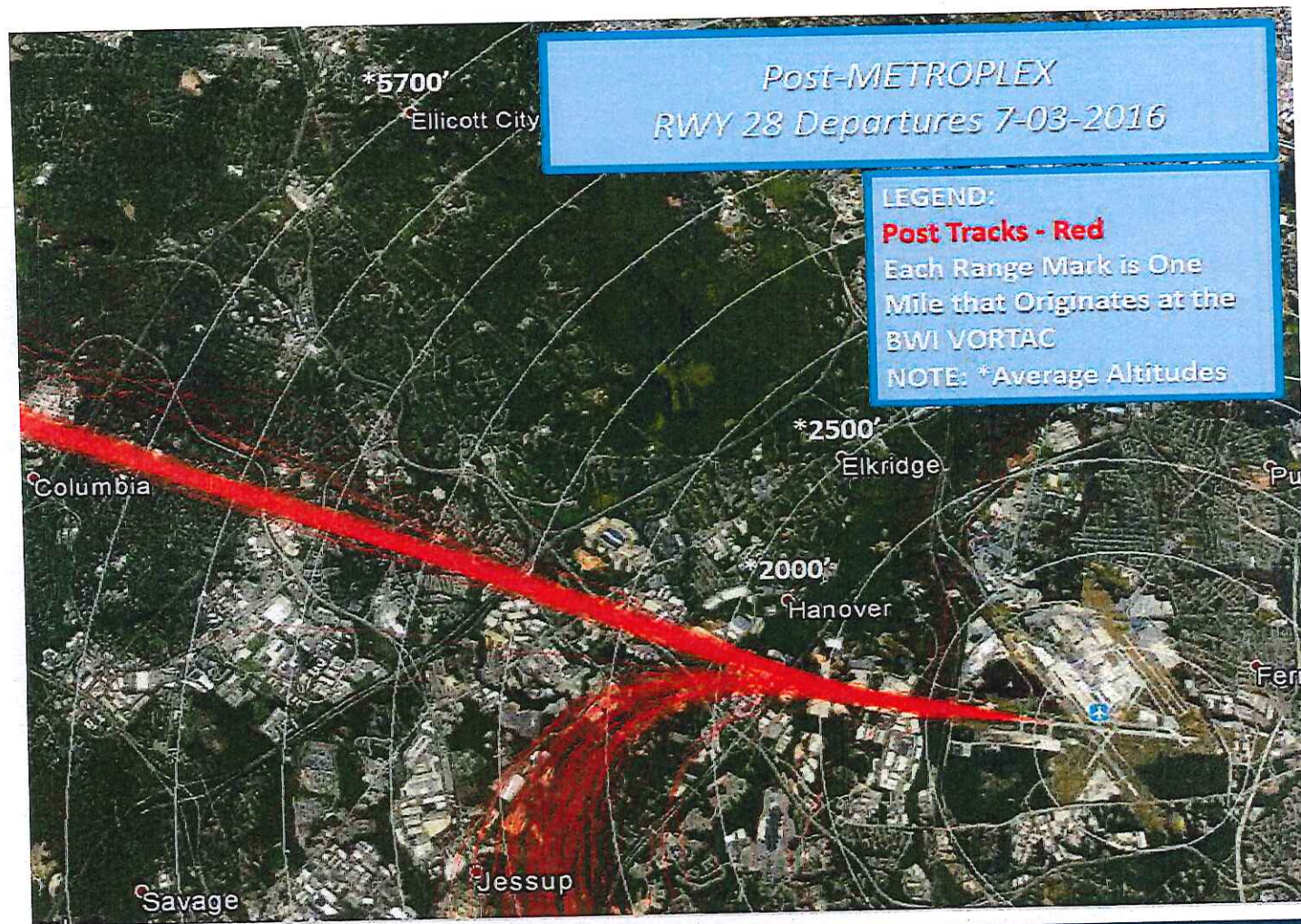
Ricky D. Smith, Sr.
Executive Director/CEO

EXHIBIT G

TERPZ SID - RWY 28 (Pre)

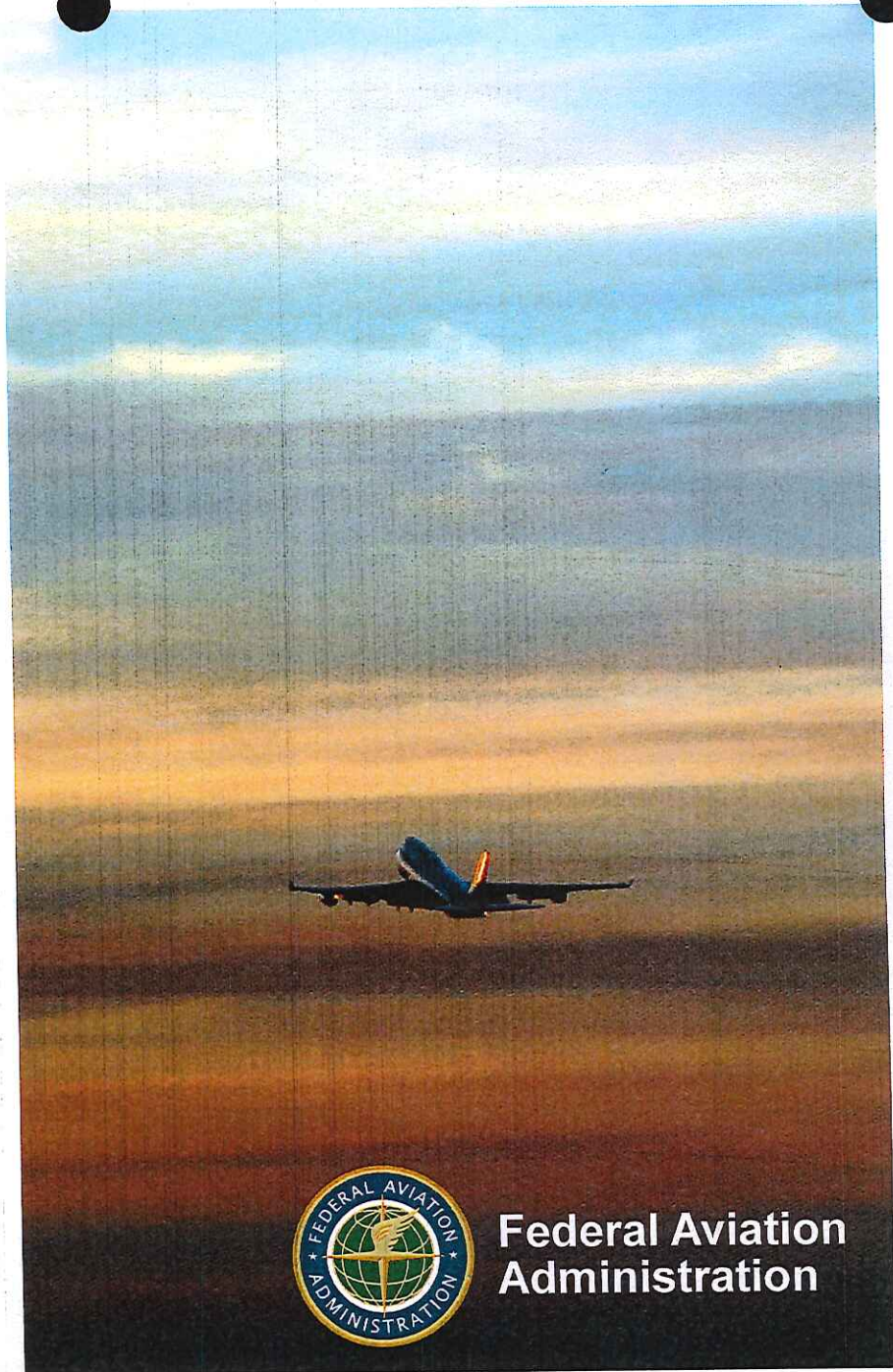


TERPZ SID - RWY 28 (Post)



FAA Updates to BWI Roundtable

May 16, 2017



*Pre-METROPLEX
RWY 28 Departures 6-29-2011*

LEGEND:

Pre Tracks - Yellow

Each Range Mark is One
Mile that Originates at the
BWI VORTAC

NOTE: *Average Altitudes

*5700'

Ellicott City

*2100'

Elkridge

*2000'

Hanover

Columbia

Ferr

Savage

Jessup

*5700'

Ellicott City

*Mid-METROPLEX TERPZ4-5 / CONLE
RWY 28 Departures 5-15-2015*

LEGEND:

Mid Tracks - Blue

Each Range Mark is One
Mile that Originates at the
BWI VORTAC

NOTE: *Average Altitudes

ONCE

Columbia

Elkridge

*2000'

Hanover

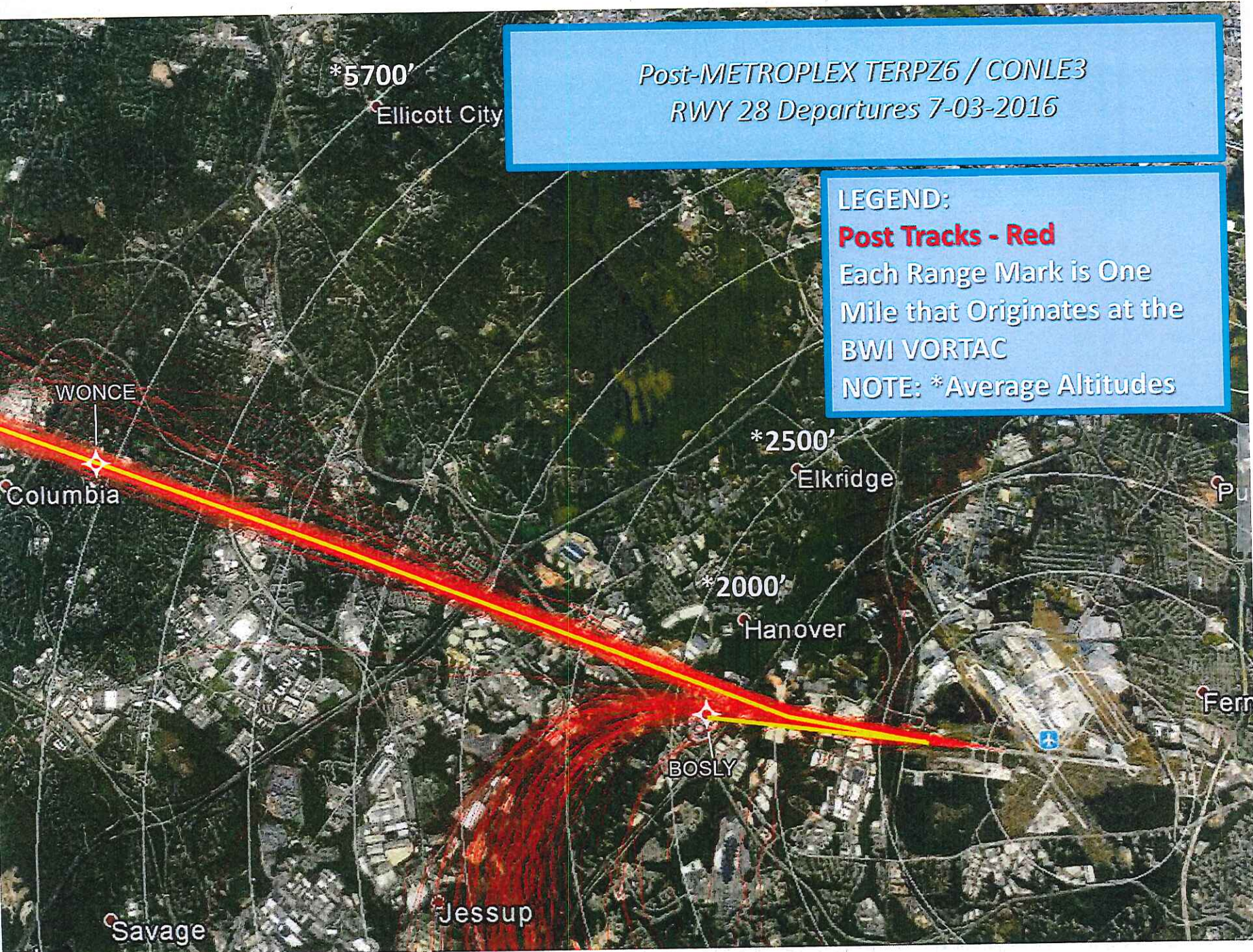
BOSLY

Savage

Jessup

Ferr





*Post-METROPLEX TERPZ6 / CONLE3
RWY 28 Departures 7-03-2016*

LEGEND:
Post Tracks - Red
Each Range Mark is One
Mile that Originates at the
BWI VORTAC
NOTE: *Average Altitudes

*5700'

Ellicott City

WONCE

Columbia

*2500'

Elkrige

*2000'

Hanover

BOSLY

Jessup

Savage

Fern

*Pre, Mid and Post-METROPLEX
RWY 28 Departures 2011, 2015 and 2016*

LEGEND:

Pre Tracks - Yellow

Mid Tracks - Blue

Post Tracks - Red

Each Range Mark is One
Mile that Originates at the
BWI VORTAC

Columbia

Ellicott City

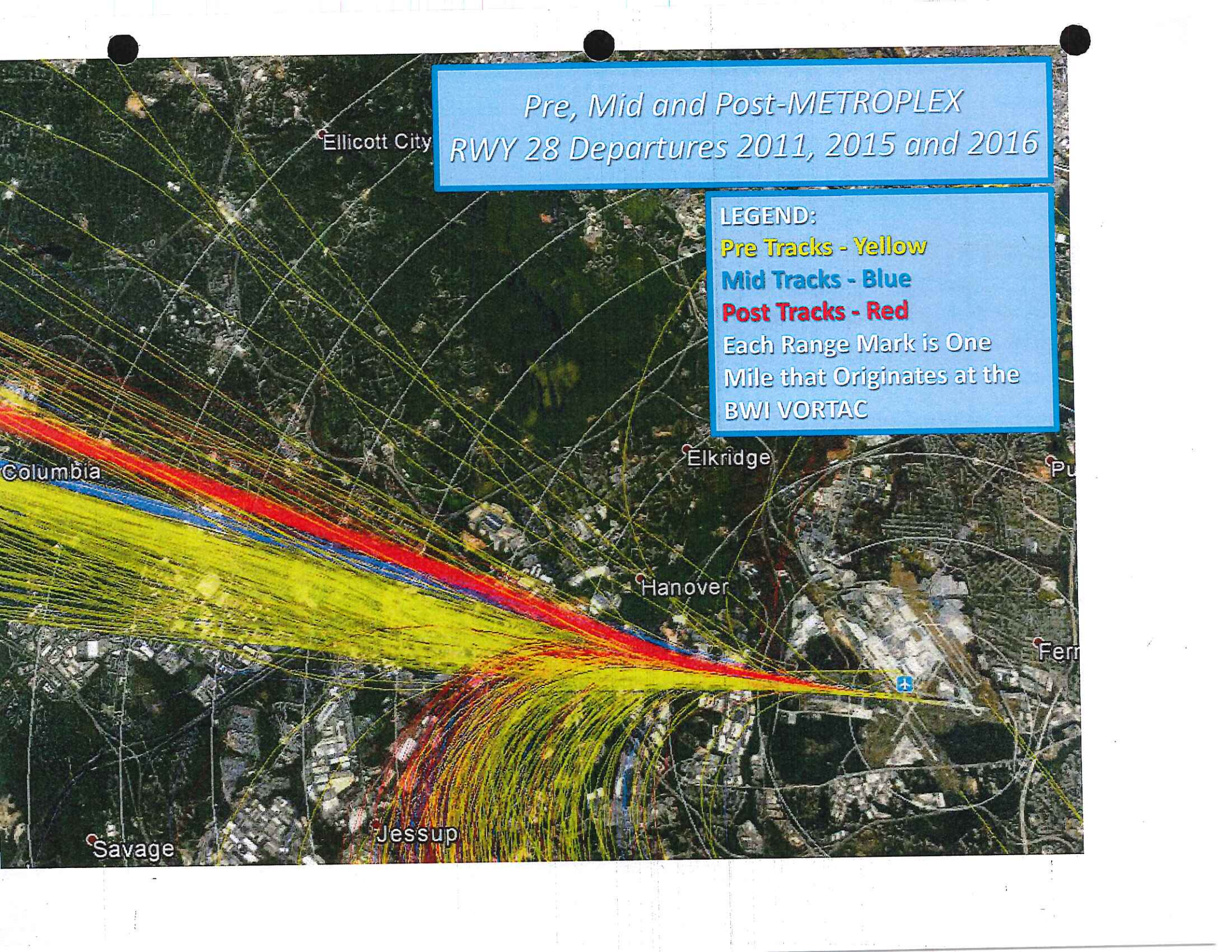
Elkridge

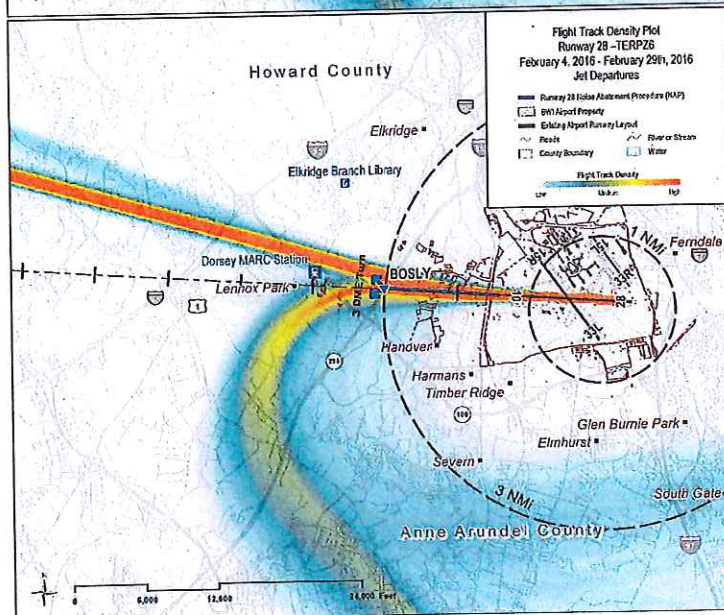
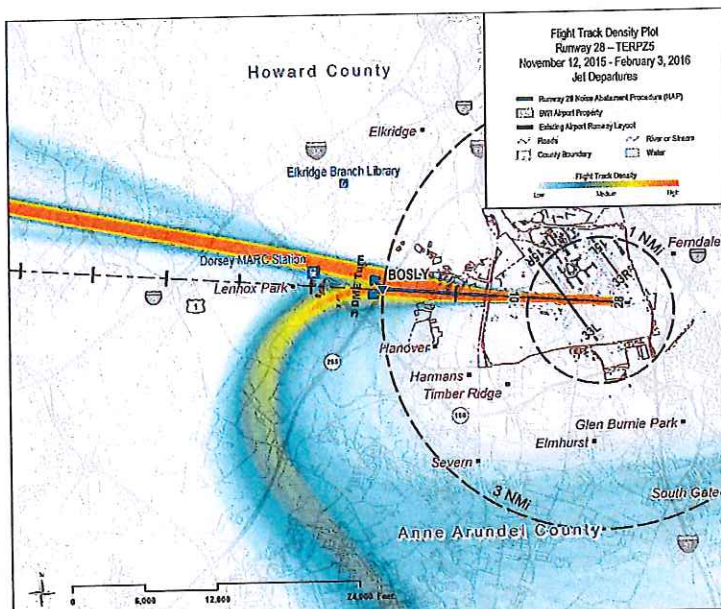
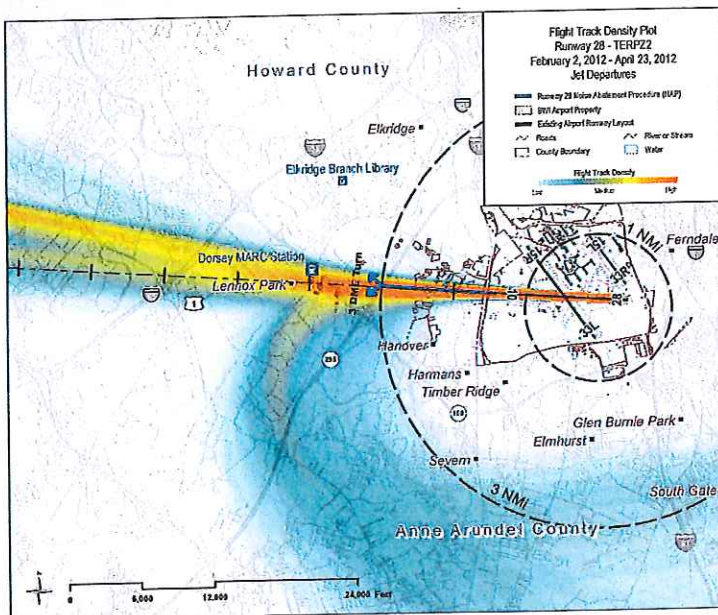
Hanover

Ferr

Savage





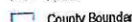
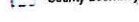

Jessup

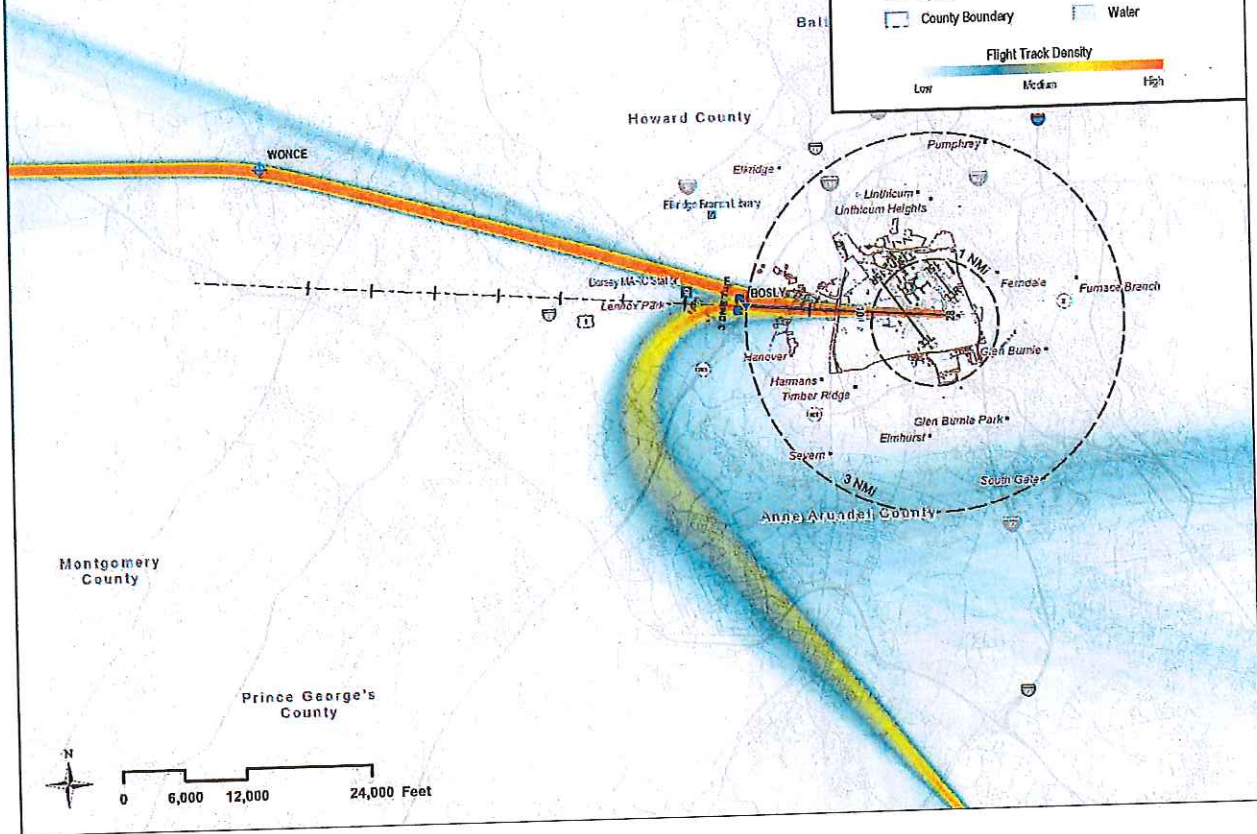




Initially Prepared for presentation at the Greater Elkridge Community Association (GECA) General Meeting, March 24, 2016
Modified track figures to density plots with additional references, and two plot range, September 12, 2016

Flight Track Density Plot
 Runway 28 - TERPZ6
 February 4, 2016 - February 29th, 2016
 Jet Departures

-  Runway 28 Noise Abatement Procedure (NAP)
-  BWI Airport Property
-  Existing Airport Runway Layout
-  Roads
-  River or Stream
-  County Boundary
-  Water



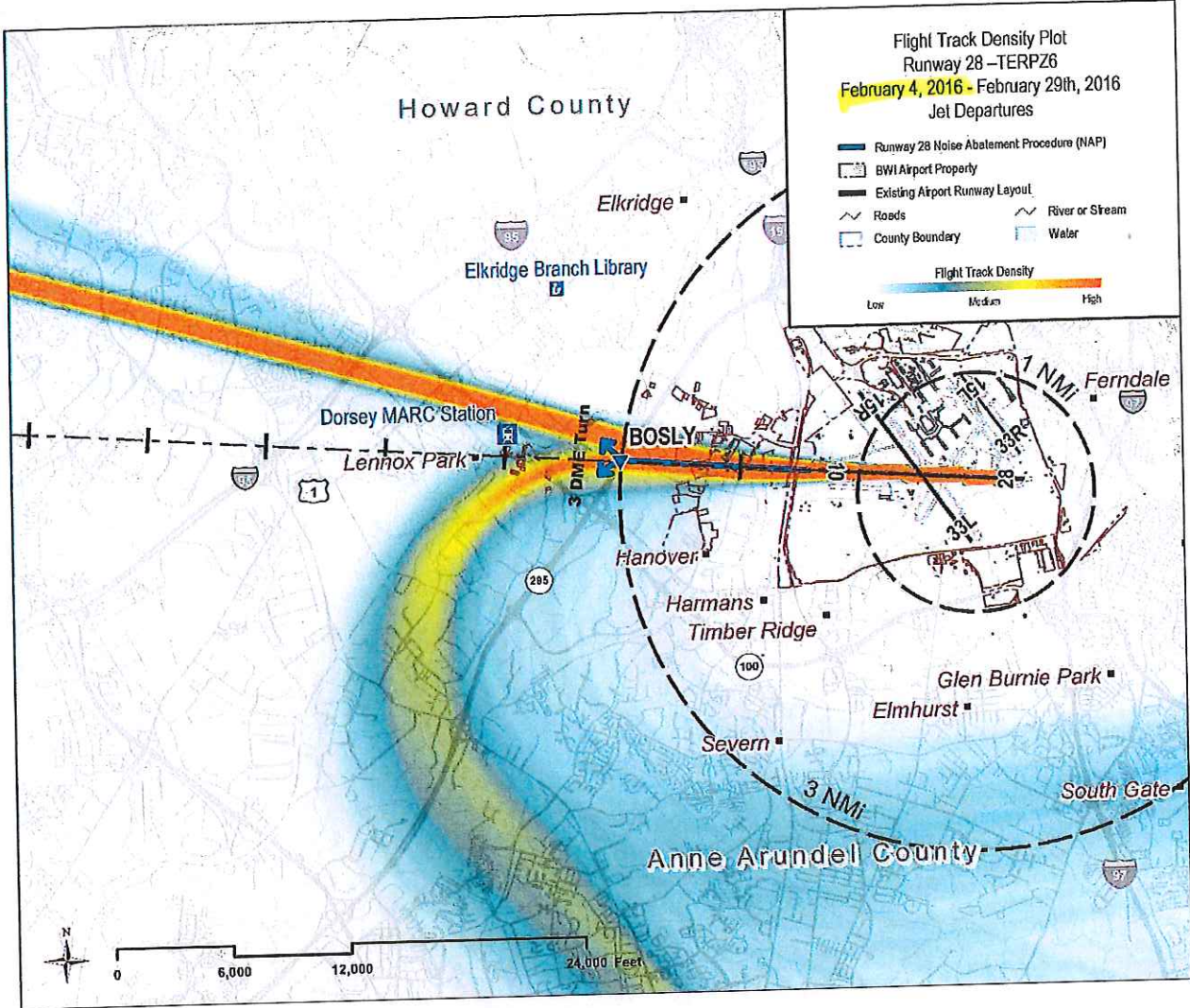


EXHIBIT H



**Supplemental Permanent Noise Monitoring Data for the
2015 and 2016 Quarterly Noise Reports
Prepared April 2017**

The Noise and Operations Monitoring System (NOMS) equipment in place at Baltimore/Washington International Thurgood Marshall Airport was installed in the late 1980's and early 1990's and is at the end of its useful life due to the age of the equipment and inability to obtain replacement parts. Additionally, five sites have been dismantled. The Maryland Aviation Administration is currently near completion of the procurement process for a new NOMS system with Notice to Proceed expected summer 2017. The attached tables present aircraft and community noise levels at the permanent noise monitors for 2015 and 2016 from the NOMS. A map of the noise monitoring locations is presented on the last page of this document.

The term DNL (symbolized as "Ldn" in mathematical equations) means Day-Night Average Sound Level, and is used to report aircraft, community and total noise levels. DNL is defined as the cumulative sound energy averaged over a twenty-four hour period, with ten-decibels (dB) added to noise events which occur between the hours of 10 p.m. and 7 a.m. This penalty accounts for the greater impact of noise events which occur at night. DNL is measured from midnight to midnight.

The tables show the quarterly Aircraft (A), Community (C), and Total (T) DNL values at each site, where data is available. At some sites community or environmental noise levels (street traffic and other neighborhood noises) exceed aircraft noise levels. Additional tables show the Aircraft (A) DNL by month. The tables also include the NOMS-reported percentage of time that each monitor was on (or has data) for the respective time period.

2015 Quarterly Noise Measurements

| SITE/ RMS# | Location | Aircraft DNL (dBA) | | | | Community DNL (dBA) | | | | Total DNL (dBA) | | | | Percent Time On | | | |
|---------------|---------------------------------|--------------------|------|------|------|---------------------|------|------|------|-----------------|------|------|------|-----------------|------|------|------|
| | | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR |
| 1 | St. Augustine Church, Elkridge | 42 | 44 | 55 | 64 | 78 | 65 | 65 | 70* | 78 | 65 | 66 | 71* | 100 | 97 | 94 | 91 |
| 2 | Melrose Ave., Harwood Park | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 3 | Lennox Ave., Dorsey | 61 | 64 | 62 | 61 | 60 | 61 | 63 | 69 | 64 | 66 | 65 | 69 | 100 | 100 | 100 | 100 |
| 4 | Ridge Rd, Hanover | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 5 | Harmans Elementary School | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 6 | Delmont United Methodist Church | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 7 | Wicklow Woods, Ferndale | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 8 | Glen Burnie Heights | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 9 | Army National Guard Armory | 58 | 59 | 54 | 61 | 64 | 74 | 75 | 70 | 65 | 74 | 75 | 70 | 84 | 98 | 100 | 100 |
| 10 | Pumping Station, Margate | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 11 | Jones Rd., Queenstown | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 12 | Rippling Woods Elementary | 61 | 63 | 64 | 63 | 59 | 67 | 66 | 63 | 63 | 68 | 68 | 66 | 100 | 99 | 100 | 100 |
| 13 | Oakwood Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 14 | Outer Approach End Rwy 15R | 55 | 61 | 66 | 74 | 64 | 68 | 67 | 66 | 64 | 69 | 69 | 74 | 92 | 56 | 48 | 69 |
| 15 | Inner Approach End Rwy 15R | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 16 | Stoney Run, Hanover | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 17 | Timber Ridge Rd., Timber Ridge | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 18 | Approach End Rwy 15L | 59 | 59 | 60 | 65 | 59 | 59 | 61 | 60 | 62 | 62 | 63 | 67 | 100 | 97 | 98 | 100 |
| 19 | Hollins Ferry, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 20 | Friendship Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 21 | Glen Burnie Park Elementary | 0 | 63 | 63 | 63 | 89 | 68 | 64 | 74 | 89 | 69 | 67 | 74 | 0 | 23 | 51 | 90 |
| 22 | Columbia | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 23 | Quarterfield Elementary School | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |

* Due to an equipment malfunction, the Community DNL on 10/3/2015 was recorded as 137 dB. These values reflect the removal of this day from the quarterly totals.

2016 Quarterly Noise Measurements

| SITE/ RMS# | Location | Aircraft DNL (dBA) | | | | Community DNL (dBA) | | | | Total DNL (dBA) | | | | Percent Time On | | | |
|---------------|---------------------------------|--------------------|------|------|------|---------------------|------|------|------|-----------------|------|------|------|-----------------|------|------|------|
| | | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR | 1QTR | 2QTR | 3QTR | 4QTR |
| 1 | St. Augustine Church, Elkridge | 48 | 48 | 46 | 44 | 61 | 68 | 66 | 66 | 61 | 68 | 66 | 66 | 98 | 95 | 89 | 98 |
| 2 | Melrose Ave., Harwood Park | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 3 | Lennox Ave., Dorsey | 62 | 64 | 64 | 63 | 60 | 66 | 62 | 61 | 64 | 68 | 66 | 65 | 100 | 99 | 94 | 100 |
| 4 | Ridge Rd, Hanover | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 5 | Harmans Elementary School | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 6 | Delmont United Methodist Church | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 7 | Wicklow Woods, Ferndale | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 8 * | Glen Burnie Heights | - | - | 55 | 53 | - | - | 66 | 74 | - | - | 67 | 74 | - | - | 94 | 88 |
| 9 | Army National Guard Armory | 52 | 65 | 52 | 63 | 64 | 65 | 70 | 69 | 64 | 68 | 70 | 70 | 94 | 96 | 100 | 99 |
| 10 | Pumping Station, Margate | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 11 | Jones Rd., Queenstown | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 12 ** | Rippling Woods Elementary | 62 | 63 | 63 | 63 | 59 | 60 | 63 | 60 | 64 | 64 | 66 | 65 | 99 | 97 | 97 | 97 |
| 13 | Oakwood Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 14 | Outer Approach End Rwy 15R | 65 | 63 | 64 | - | 66 | 67 | 68 | - | 68 | 68 | 69 | - | 80 | 57 | 64 | - |
| 15 | Inner Approach End Rwy 15R | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 16 | Stoney Run, Hanover | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 17 | Timber Ridge Rd., Timber Ridge | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 18 | Approach End Rwy 15L | 58 | 59 | 59 | 63 | 60 | 63 | 62 | 60 | 62 | 64 | 64 | 65 | 99 | 98 | 98 | 100 |
| 19 | Hollins Ferry, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 20 | Friendship Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 21 | Glen Burnie Park Elementary | 62 | 66 | 63 | 62 | 61 | 67 | 63 | 64 | 65 | 69 | 66 | 66 | 100 | 100 | 100 | 98 |
| 22 | Columbia | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| 23 | Quarterfield Elementary School | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |

* Site 8: Due to tree growth near the monitor, the unit was not able to be calibrated during the two maintenance visits in 2016.

** Site 12: Reported values for June 15, 2016 and November 15, 2016 for Aircraft, Community and Total DNL were high for unknown reasons.

Both days have been removed from the Quarterly results

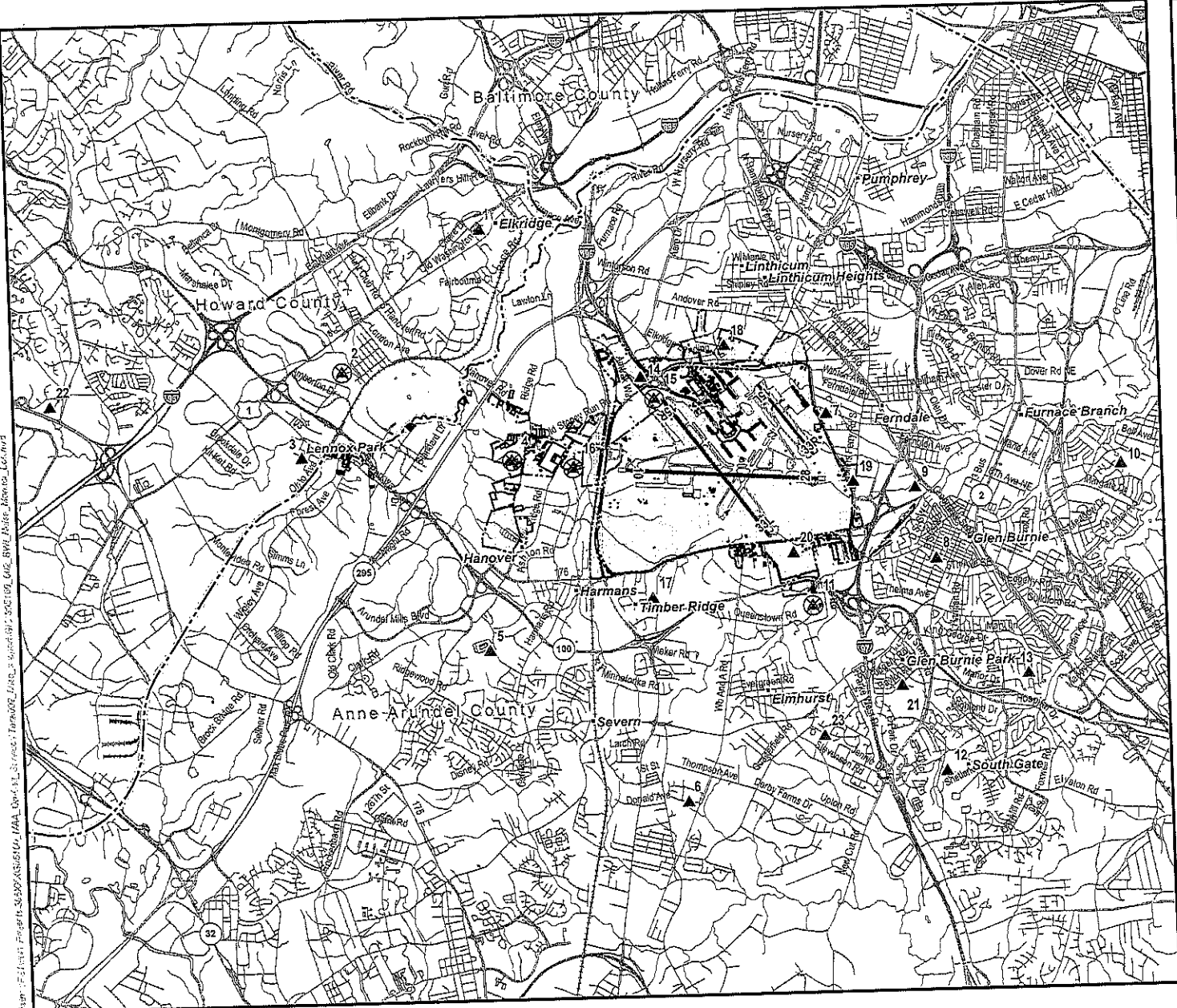
2016 Monthly Noise Measurements

| RMS# | Location | Monthly Aircraft DNL and (Percent Time On) | | | | | | | | | | | |
|-------|---------------------------------|--|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| | | Jan 16 | Feb 16 | Mar 16 | Apr 16 | May 16 | Jun 16 | Jul 16 | Aug 16 | Sep 16 | Oct 16 | Nov 16 | Dec 16 |
| 1 | St. Augustine Church, Elkridge | 45 (100) | 47 (99) | 51 (97) | 46 (97) | 50 (95) | 45 (94) | 46 (94) | 49 (78) | 43 (93) | 44 (99) | 46 (99) | 43 (98) |
| 2 | Melrose Ave., Harwood Park | - | - | - | - | - | - | - | - | - | - | - | - |
| 3 | Lennox Ave., Dorsey | 61 (99) | 62 (100) | 62 (100) | 63 (100) | 64 (100) | 64 (96) | 63 (97) | 63 (96) | 64 (90) | 63 (100) | 63 (100) | 63 (100) |
| 4 | Ridge Rd, Hanover | - | - | - | - | - | - | - | - | - | - | - | - |
| 5 | Harmans Elementary School | - | - | - | - | - | - | - | - | - | - | - | - |
| 6 | Delmont United Methodist Church | - | - | - | - | - | - | - | - | - | - | - | - |
| 7 | Wicklow Woods, Ferndale | - | - | - | - | - | - | - | - | - | - | - | - |
| 8 * | Glen Burnie Heights | - | - | - | - | - | - | 32 (40) | - | 55 (96) | 54 (94) | 53 (79) | 50 (88) |
| 9 | Army National Guard Armory | 52 (89) | 49 (94) | 54 (100) | 59 (95) | 53 (96) | 69 (96) | 54 (100) | 51 (100) | 52 (100) | 54 (100) | 67 (99) | 56 (98) |
| 10 | Pumping Station, Margate | - | - | - | - | - | - | - | - | - | - | - | - |
| 11 | Jones Rd., Queenstown | - | - | - | - | - | - | - | - | - | - | - | - |
| 12 ** | Rippling Woods Elementary | 61 (100) | 62 (100) | 63 (99) | 62 (100) | 63 (100) | 63 (97) | 64 (100) | 63 (100) | 61 (100) | 63 (100) | 63 (97) | 63 (100) |
| 13 | Oakwood Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - |
| 14 | Outer Approach End Rwy 15R | - | 60 (85) | 66 (78) | 60 (61) | 64 (60) | 63 (43) | - | 64 (65) | 37 (50) | - | - | - |
| 15 | Inner Approach End Rwy 15R | - | - | - | - | - | - | - | - | - | - | - | - |
| 16 | Stoney Run, Hanover | - | - | - | - | - | - | - | - | - | - | - | - |
| 17 | Timber Ridge Rd., Timber Ridge | - | - | - | - | - | - | - | - | - | - | - | - |
| 18 | Approach End Rwy 15L | 58 (100) | 58 (97) | 59 (99) | 59 (100) | 59 (97) | 59 (97) | 59 (98) | 60 (98) | 58 (100) | 59 (100) | 67 (100) | 59 (100) |
| 19 | Hollins Ferry, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - |
| 20 | Friendship Park, Glen Burnie | - | - | - | - | - | - | - | - | - | - | - | - |
| 21 | Glen Burnie Park Elementary | 61 (100) | 62 (100) | 63 (100) | 63 (100) | 64 (100) | 69 (100) | 63 (100) | 63 (100) | 61 (100) | 62 (98) | - | - |
| 22 | Columbia | - | - | - | - | - | - | - | - | - | - | - | - |
| 23 | Quarterfield Elementary School | - | - | - | - | - | - | - | - | - | - | - | - |

* Site 8: Due to tree growth near the monitor, the unit was not able to be calibrated during the two maintenance visits in 2016.

** Site 12: Reported values for June 15, 2016 and November 15, 2016 for Aircraft, Community and Total DNL were high for unknown reasons.

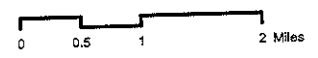
Both days have been removed from the monthly results



Permanent Noise Monitor Locations

- RMS# Noise Monitor Location
- RMS# Former Noise Monitor Location; Equipment has been dismantled.
- BWI Airport Property
- Existing Airport Runways
- Roads
- River or Stream
- County Boundary
- Water

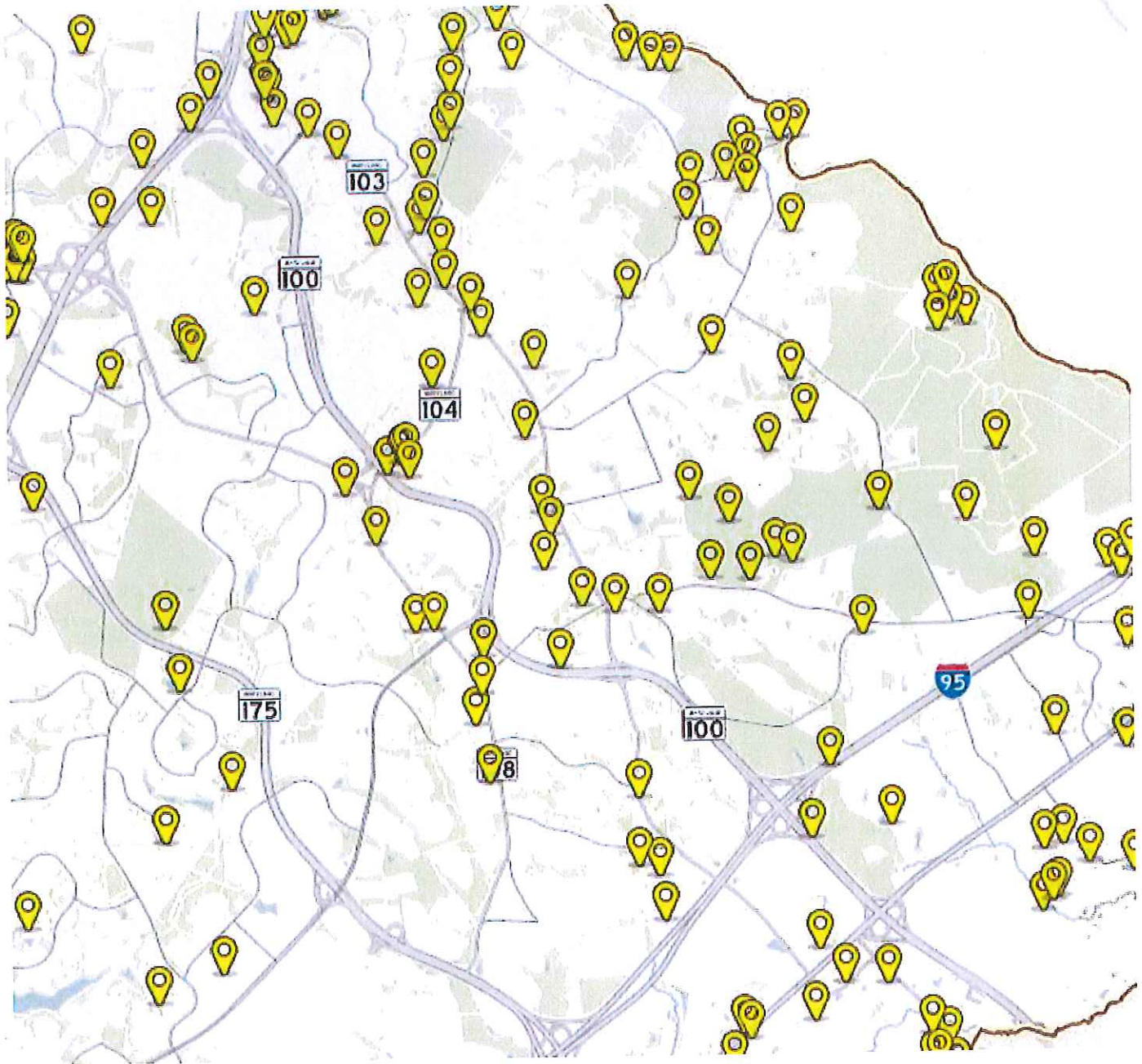
Data Sources: Maryland Aviation Administration;
 Maryland State Highway Administration; Anne Arundel & Howard County;
 Maryland Department of Planning; Environmental System Research Group, Inc.



Page: 1 of 1 Date: 11/13/2013 10:54:11 AM Job: 1310001-TIMOTHY_LAROCHE - 2013-11-13 10:54:11 AM Job: 1310001-TIMOTHY_LAROCHE - 2013-11-13 10:54:11 AM

EXHIBIT I

Yellow pins show the location of a historic site that is on the Howard County Historic Sites Inventory. There is an abundance of historic structures in this area; there are about 100 in the below map. Each house has an HO # and inventory information. This is the general location of the aviation concern.



From: [Kim Hughes](#)
To: [Stacy Talmadge](#); [Ryan Lombardi](#)
Subject: FW: New MAA Draft Environmental Assessment for BWI Improvements
Date: Sunday, January 07, 2018 11:27:25 AM

Please start the comment file and matrix for responses.

-----Original Message-----

From: Robin Bowie [<mailto:rbowie@bwiairport.com>]
Sent: Saturday, January 06, 2018 2:22 PM
To: Kim Hughes <KHUGHES@HNTB.com>
Subject: FW: New MAA Draft Environmental Assessment for BWI Improvements

Kim,

A comment on the EA for our records.

From: Mr. Drew [mrdrew@gmail.com]
Sent: Saturday, January 6, 2018 10:39 AM
To: Karen Harrell

Cc: David Richardson; kevans116@gmail.com; Steve Alterman; Paul Harrell; Dan Klosterman; Marcus Parker; gcm@prestonsp.com; Howard L. Johnson; Gail Sigel; Paul Verchinski; Rusty Toler; Erica Wilemon; Linda Curry; Lance Brasher; Christopher Yates; Jesse Chancellor; Mary Reese; Evan Reese; Scott Proudfoot; Steve.Batchelder@faa.gov; Bennie Huto; Marie Kennington-Gardiner; Robert A Owens; Patrick Daly, Jr.; Ramon Robinson; David Lee; gfielhauer@howardcountymd.gov; bryan sheppard; Gary Smith; Ellen Moss; Paul Shank; Sherry Varner; Simon Taylor; Louisa Goldstein; Robert Sager; Robin Bowie; Darline Terrell-Tyson; Royce Bassarab; Roberta Walker; Jonathan Dean; Mary Ellen Eagan; Kurt Hellauer; Katherine B. Preston; Adam R. Scholten; Alverna Durham, Jr
Subject: New MAA Draft Environmental Assessment for BWI Improvements

<http://www.marylandaviation.com/.../en.../environmentaldocs.html><https://l.facebook.com/l.php?u=http%3A%2F%2Fwww.marylandaviation.com%2Fcontent%2Fenvironmental%2Fenvironmentaldocs.html&h=ATOygyOr4RKidetcKaznE85jv96orWfUv-SmfoCZ15YvZJE5ZsI1PBjp998UijqCO4JdXWV280wrdeLnRjPMpuqylqwrhh1Sj8QCZMcBE3RbfQKkaBsa-gRg0tb_nYZSmDpd4F-gfMH71hrJlqj6dq4EvYTIaVoiX3lv1AHKkv8RveBOLjuJbz01DP9CKcjX5-iWgePECA17JemF5Tobg4s0-Ve-s8aBuHdLWUm8tzOIHBahA0p1XunPG_YY7pMzSUWaQYZVVICfwIdutRQ15yVWj1ZiYBjMaWHPiHCzSq>

Scroll down a bit to read it.

The noise appendix is very relevant.

While the intro states that this does not affect flight paths and is independent of Nextgen, the proposed program most definitely increases airport capacity and therefore increases noise.

We should consider asking this EA to be coupled to the NextGen EA, and that a full environmental impact statement be performed for the combined effort due to the noise increase.

Drew.

Barbara Deckert
6075 Claire Drive
Elkridge, MD 21075
bdcouture@aol.com

January 23, 2018

Ms. Robin Bowie Director, Office of Environmental Services, MDOT, MAA
PO Box 8766
BWI Airport, MD 21240
rbowie@bwiairport.com

Dear Ms. Bowie:

RE: Draft Environmental Assessment and Draft Section 4(f) Determination for Proposed Improvements 2016-2020.

I object to the entire Draft EA because the existing and proposed Noise Zone contours as established by this EA are inaccurate and do not reflect the current extent of noise pollution and community complaints from the neighborhoods surrounding BWI Airport.

Noise Zone Maps Contradict Noise Complaints, by Location and Numbers

At a glance, the differences in geographic area, among various MAA Noise Exposure Maps from 2003 through 2016 and the proposed 2020 Noise Zone contours in this Draft EA are minuscule, with barely an eighth or quarter of a mile variation here and there.

Nonetheless, complaints about airport noise have skyrocketed since the implementation of NextGen. In 2013 there were 266 complaints, about 22.16 per month. In 2014 there were 771 complaints, or about 64.25 a month¹. NextGen was fully implemented in Fall of 2015. As of October 2017, BWI was receiving about 2,000 noise complaints a month.² That's an astronomical **8,925% increase in noise complaints as compared to 2013 and a 3,013% increase over 2014.**

Moreover, as documented on the MAA's Noise Complaint Form, the addresses cited by complainants in "Contact Information" indicate that noise pollution has become a community concern in what is now about a 20-25 mile radius around BWI.³

DNL is an Inadequate Measure of Human Suffering, Especially at BWI

At the January 16, 2018 BWI Roundtable meeting, a young woman testified, with tears running down her face, that she was recently hospitalized for five days and was in danger of losing her job because of sleep deprivation caused by aircraft noise from BWI; she does not live in a Noise Zone.

¹ Quarterly Noise Reports.

² BWI Roundtable Minutes, October 2017.

³ Map presented to BWI Roundtable by MAA in June, "Location of Complaints."

Much ado is made of DNL as an ideal metric for measuring community annoyance in the Draft EA's *Appendix K Noise*. It makes a circular and therefore specious argument that a DNL of 65 dB is used by the FAA and other agencies, so it adequately gauges community sensitivities to noise. That's not good enough, as numerous scholarly studies have asserted.

In the communities around BWI, DNL is decidedly not an accurate reflection of community annoyance. A review of data published in BWI's Quarterly Noise Reports and Supplemental Permanent Noise Monitoring Data for 2012-2017 documents otherwise. There are very few incidences of DNL numbers over 65 caused by noise from aircraft operations, as recorded and calculated from all working permanent noise monitors, counted here by quarters:

| Year | Number Working Monitors | Total Number Quarterly Noise Measurements posted | Total Number DNL readings >65 (readings) |
|-----------------|-------------------------|--|--|
| 2012 | 14 | 52 | 2 (74, 72) |
| 2013 | 11 | 40 | 1 (67) |
| 2014 | 10 | 32 | 2 (68, 67) |
| 2015 | 7 | 28 | 2 (66, 74) |
| 2016 | 7 | 26 | 1 (66) |
| 2017 (Q1/Q2/Q3) | 6/6/6 | 6/12/18 | 0 |

How can that be? For 2017, through Q3, there are *no* DNL numbers over 65 posted in these reports for any of the remaining working permanent monitors. (In actuality, as of March 2017 there were only five out of an original 23 working permanent noise monitors, with one of those uncalibrated.⁴) Yet, BWI's neighbors are filing noise complaints at the rate of 2,000 a month. Obviously, **DNL does *not* reflect community annoyance in the counties surrounding BWI.**

When a new permanent noise monitoring system is operational in the future, does the MAA expect the incidence of aircraft related noise levels over 65 DNL to increase, commensurate to the number and location of noise complaints? It should. Because of the MAA's malfeasance in failing to maintain a working noise monitoring system for over five years, as required by MD law, it has at present no idea where its real noise zones are now, much less where they will be in 2020, based on scientifically collected and analyzed noise data.

Noise Modeling Software is Inadequate to Establish Noise Zones

Appendix K Noise summarizes the FAA's and MAA's use of noise modeling software (AEDT 2b) as a substitute for noise data to establish noise zones. It cites the use of *stage length* as a "surrogate for aircraft weight."

⁴ March 14, 2017 memo from Michael Coleman, Field Technician at Harris, to Randy Dickinson, obtained by PIA request.

However, there is no information in this *Draft EA* on the accuracy or appropriateness of this modeling. Specifically, there is no information on whether stage lengths accurately reflect increasing trends in Passenger Load Factors. As pointed out in one of the letters of objection to the FONSI⁵, stage length calculations assume a 1970's standard of a 65% payload factor, which is inadequate for today's payloads. Since most flights now are at or near passenger capacity, those numbers may be far closer to 100%. Greater Take Off Weights require more thrust, which produces more noise for farther out from the airport. An increase of 10% in Take Off Weight causes a noise increase of 3-7 dB. The use of stage length underestimates calculated DNL's. Since Take Off Weights are calculated for every departure for the sake of safety, MAA should use that actual data to calculate DNL's and to establish its Noise Zones around BWI.

Note that while the FAA's Order 1050.1F assumes the use of AEDT 2b noise modeling, it does allow the use of data from noise monitors and perhaps the use of Take Off Weights with prior written approval for more accurate noise analysis.⁶

In addition, the *Appendix K Noise* makes no mention of the altitude problem that has plagued the communities surrounding BWI. Since the implementation of NextGen, aircraft are arriving and departing at much lower altitudes than previously, which causes greater perceived noise. These lower altitudes, in addition to increased payloads that require greater thrust, also have the effect of pushing noise zones farther out from the airport. If the noise models used by the MAA do not accurately include the newer, lower altitudes associated with changes from NextGen, then accurate altitude numbers should also be used to calculate DNL in order to establish Noise Zones around BWI.

In its present form, it is not possible for the Draft EA to assist the FAA in evaluating potential environmental effects from proposed improvements. The MAA must use accurate noise data for the entire area around BWI that is now affected by NextGen related noise pollution, and/or modeling that incorporates accurately calculated Take Off Weights plus actual aircraft altitudes to determine its real Noise Zone contours.

May I remind the MAA that the 2013 Maryland Code TRANSPORTATION § 5-804 - Limits for Cumulative Noise Exposure ensures that Maryland citizens are protected from noise pollution:

(a) . . . shall adopt regulations that establish limits for cumulative noise exposure for residential and other land uses on the basis of the noise sensitivity of a given land use.

(b) In adopting limits under this section, the Executive Director shall:

(1) Consider:

(i) The general health and welfare;

(ii) The rights of property owners;

(iii) Accepted scientific and professional standards; and

(iv) The recommendations of the Federal Aviation Administration and Environmental Protection Agency; and

⁵ Comments on DC OAPM DEA, Michael G. Kroposki, 7/18/2013

⁶ Order 1050 1F, Appendix B. FAA Requirements for Assessing Impacts Related to Noise and Noise-Compatible Land use and Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303), p. B-2.

(2) Set the limits at the most restrictive level that, through the application of the best available technology at a reasonable cost and without impairing the safety of flight, is consistent with attaining the environmental noise standards adopted by the Department of Health and Mental Hygiene.

This Draft EA should be rejected because its Noise Zone contours do not accurately, by use of *best scientific and professional standards*, in order to protect *the health and welfare, and rights of property owners*, document the extent and location of noise pollution caused by BWI Airport.

Sincerely,

Barbara Deckert

cc: Governor Larry Hogan, 100 State Circle, Annapolis, MD 21401-1925
MDOT Secretary Pete K. Rahn, secretary@mdot.state.md.us
AG Brian Frosh, oag@oag.state.md.us
FAA, Washington Airports District Office, 23723 Air Freight Ln., Suite 210, Dulles, VA 20166
BWI Roundtable: Chair: Lance Brasher Lance.Brasher@skadden.com
District 12: Howard Johnson, hj@comcast.net
Drew Roth, mrdrew@gmail.com

Drew Roth
6117 Lawyers Hill Road
Elkridge, MD 21075
mrdrew@gmail.com

Ms. Robin Bowie Director, Office of Environmental Services, MDOT, MAA
PO Box 8766
BWI Airport, MD 21240
rbowie@bwiairport.com

January 30, 2018

Dear Ms. Bowie:

RE: Draft Environmental Assessment and Draft Section 4(f) Determination for Proposed Improvements 2016-2020.

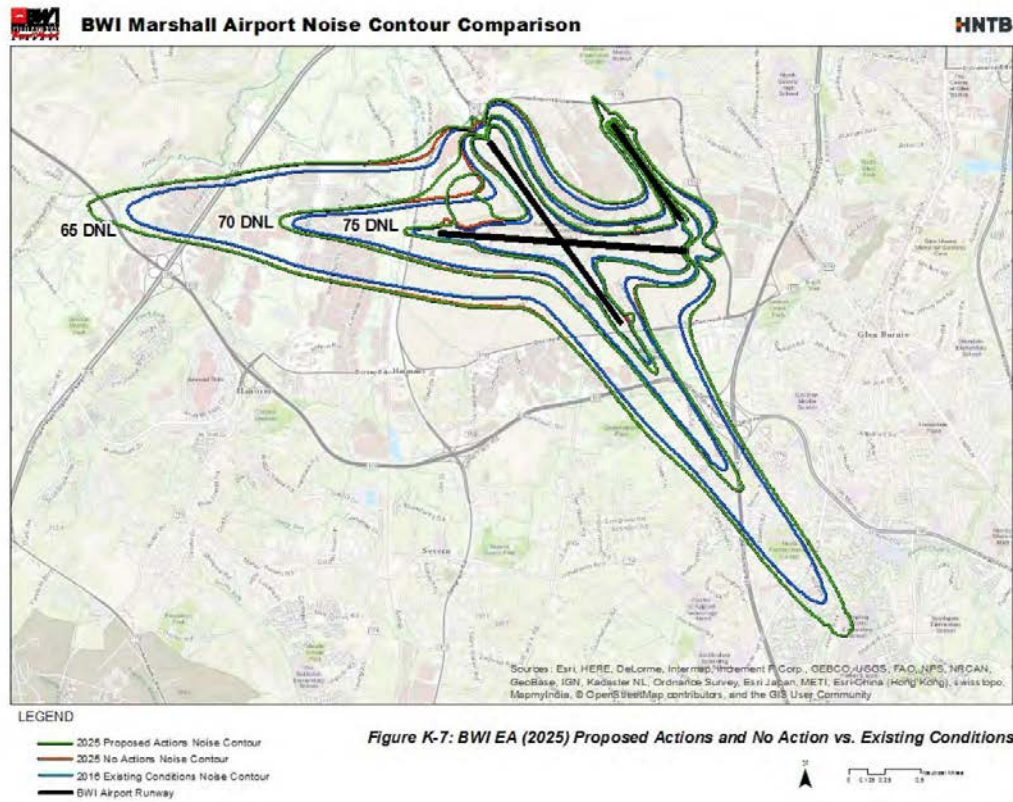
I ask that the EPA deny a Finding of No Significant Impact (FONSI) for this proposal, and that the EPA perform a full Environmental Impact Study for the combined noise impacts on surrounding communities for both this proposal and the FAA DC Metroplex Nextgen program.

1. The proposal increases noise in the vicinity of the airport.

According to Appendix K-3.2.1

“On an Average Annual Day (AAD) basis, the total number of operations is projected to increase from 683.88 in 2016 to 737.31 in 2020 and 800.90 in 2025. Table K-3.1 summarizes the number of operations by operating categories.”

This increase in flights will necessarily increase noise in the communities surrounding the airport. This is reflected in Figure K7.



However, Figure K-7 shows the noise contour for the proposed action and the no action alternative to be nearly identical. This cannot be reconciled with the Statement of Purpose and Need, which clearly states “The Proposed Action includes those improvements required to accommodate the projected activity levels through 2020.”

If the proposed action is required to accommodate projected activity levels, there should be a difference in the noise contour between the proposed action and the no action alternative.

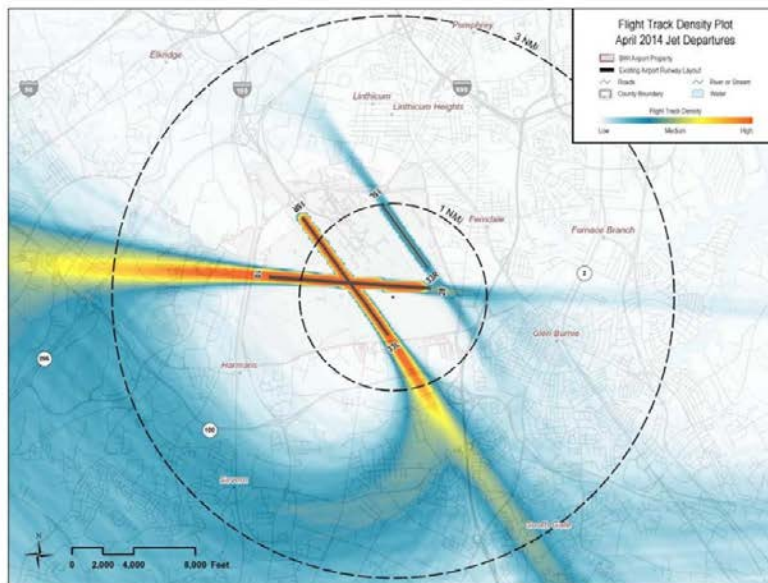
2. The noise contours in Appendix K do not reflect the actual flight paths under Nextgen.

Prior to Nextgen, departures from Runway 28 proceeded straight on a line with the runway.¹

¹ Presentation to FAA Roundtable July 2017

http://maacommunityrelations.com/_media/client/anznoiseupdate/2017/20170718_Roundtable_Presentation_HMMH.pdf

Jet Departures, April 2014



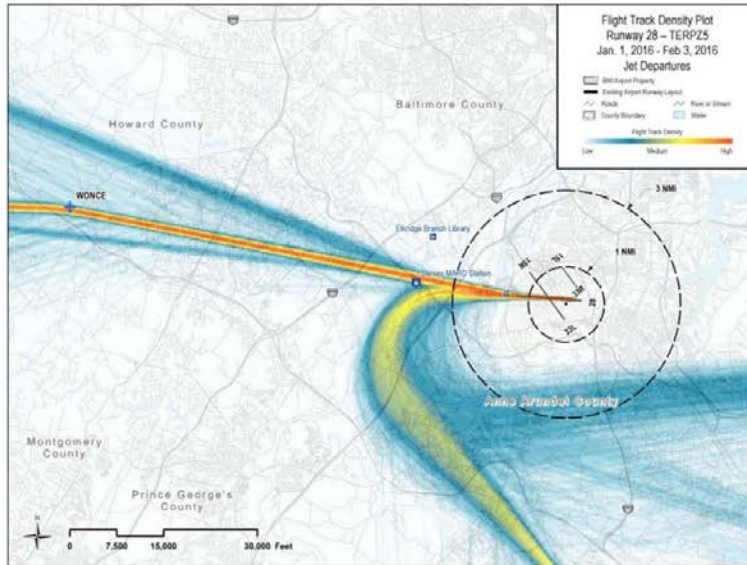
Source: MAA, 2016

'be better'

This pre-Nextgen flight path is consistent with the noise contours in the proposal. Specifically, note that the westernmost point of the noise contours are on a straight line from Runway 28.

However, under the Nextgen TERPZ 5 and TERPZ 6 procedures, there is a right turn soon after departure.

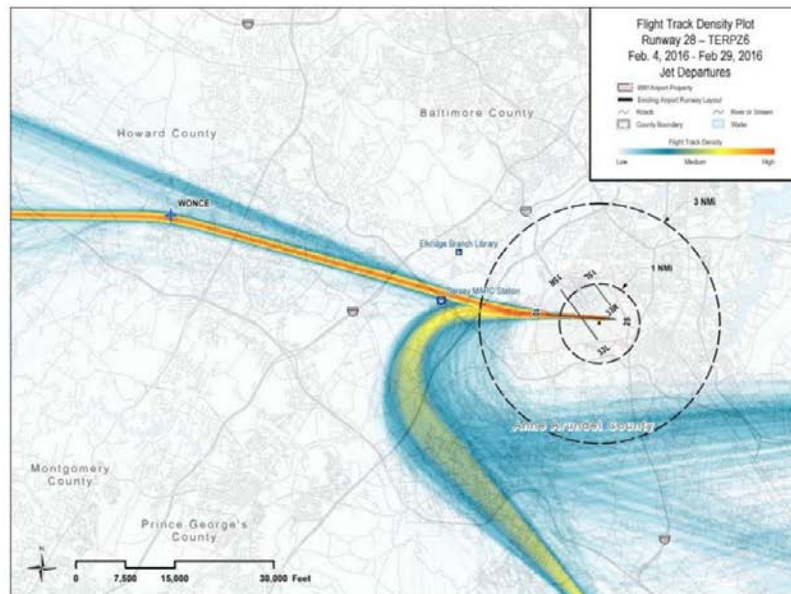
TERPZ5, Runway 28



Source: MAA, 2016

'be better'

TERPZ6, Runway 28



Source: MAA, 2016

'be better'

It appears that the noise contours in the subject EA are based on the pre-Nextgen flight

patterns. If they were based on the current Nextgen flight patterns, one would expect the westernmost point of the noise contour to be to the north of a straight line from Runway 28. The difference is readily apparent if one compares the point at which the flight paths intersect MD 100.

3. The difference between the flight paths shown in this EA and in the DC Metroplex EA is significant.

If the noise contours were aligned with the Nextgen flight patterns, the Oxford Square development of 1400 residences, Thomas Viaduct Middle School, and Hanover Hills Elementary School would be within the 65 DNL contour. If the Purpose and Need Statement for the subject EA is correct, and the proposal is required to meet anticipated demand, one would expect the noise contour to increase over these communities, resulting in an increased significant impact.

Furthermore, the DC Metroplex EA clearly states there will be no significant impacts due to flight path changes under 3000 feet AGL. This EA received a FONSI based on this assertion. However, it is apparent that the rightward turn has created a significant impact on the Oxford Square residences, which are likely now within the 65 DNL contour, and where aircraft routinely fly directly overhead at an altitude of approximately 1200 feet AGL.

4. The Nextgen DC Metroplex program implementation has created significant public controversy, which will only be increased by the subject proposal.

As a result of the DC Metroplex program at BWI

- * Noise complaints to the MAA have skyrocketed.
- * The FAA has created a community Roundtable to respond to community complaints.
- * The FAA has received letters from the Governor of Maryland, and our Congressional Delegation demanding that they address the noise impacts on the surrounding communities.
- * Howard County, Maryland, has passed legislation authorizing legal action against the FAA, and has hired external counsel.
- * The Governor of Maryland has directed the Maryland State's Attorney to pursue legal action against the FAA, and the State's Attorney's office has hired external counsel.

The correspondence of the FAA Roundtable and local elective representatives is archived at <http://www.maacommunityrelations.com/content/anznoiseupdate/dcroundtable.php>.

5. Proposed actions

I ask the Environmental Protection Agency to take the following actions:

- A. Perform a comprehensive Environmental Impact Study on aircraft noise in the vicinity of BWI airport, to specifically include the impacts of the subject EA and the FAA Nextgen Program.
- B. Evaluate the compliance of the DC Metroplex Program at BWI with respect to the EA and FONSI which authorized the program.
- C. Until the EIS is complete, require BWI flight paths to revert to what they were prior to the

implementation of the Nextgen program, as defined by the DC Metroplex EA.

Sincerely,

Drew Roth

cc: Governor Larry Hogan, 100 State Circle, Annapolis, MD 21401-1925

MDOT Secretary Pete K. Rahn, secretary@mdot.state.md.us

AG Brian Frosh, oag@oag.state.md.us

FAA, Washington Airports District Office, 23723 Air Freight Ln., Suite 210, Dulles, VA 20166

BWI Roundtable: Chair: Lance Brasher Lance.Brasher@skadden.com

DC METROPLEX BWI COMMUNITY ROUNDTABLE

c/o Maryland Aviation Administration

P.O. Box 8766

BWI Airport, MD 21240-0766

June 4, 2018

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240

RE. Faulty MAA Draft Environmental Assessment for the Proposed Expansion of BWI

Dear Ms. Bowie:

The DC Metroplex BWI Community Roundtable (RT) was formed by the Maryland Aviation Administration (MAA) at the insistence of the Federal Aviation Administration (FAA) to act as the vehicle for addressing the harmful noise issues associated with the NextGen/DC Metroplex project. The RT has gained valuable knowledge from the FAA and MAA over the past year related to the technical components associated with the NextGen implementation. We believe this information will be important as we move forward and continue to grapple with this issue.

With that understanding, and keeping consistent with the RT's purpose, we agree with the comments made to you by the Howard County Office of Law in a letter dated March 9, 2018. Their comments are in reference to the Draft Environmental Assessment at Baltimore/Washington International Thurgood Marshall Airport (BWI) dated January 5, 2018. It was prepared by the MAA for approval by the FAA and in support of the proposed expansion of BWI thru 2020. Massive development of BWI is proposed which would result in increased aircraft operations and therefore airplane noise. Community outreach by both the MAA and FAA has been substantially nonexistent.

The Howard County Office of Law pointed out the Draft EA is legally insufficient in several respects:

- It is not based on sufficient evidence.
- It is based on non-representative and outdated noise data that the MAA has acknowledged does not reflect actual conditions.
- The FAA 14 CFR Part 150 Noise Compatibility Planning process is not addressed in the Draft EA. This invalidates all of the assumptions about harmful impacts due to noise based on FAA compliance with Part 150 Planning and the outdated data.
- It completely fails to acknowledge the highly controversial and significant harmful impacts that aircraft noise has had on Maryland citizens as a result of the FAA's implementation of NextGen.
- It fails to include sufficient analysis of other environmental impacts related to air quality, climate change, land use, historic preservation, and deforestation, and its almost complete failure to consider impacts in Howard and Anne Arundel Counties.

In addition, the RT is including an attachment which shows the number of aircraft operations that have taken place on an annual basis at BWI since 2006. Operations totaled 266,790 in 2006, reached a low of 245,121 in 2014 and in 2017 reached 261,707. Airport expansion is not needed when operations have not exceeded or even reached the levels seen in 2006. Any projections made by the MAA are therefore suspect and unsupported by actual operations.

We will request that the FAA deny approval of the Proposed Action. We will also request that the FAA order the MAA to perform a full Environmental Impact Statement pursuant to NEPA, NHPA, and Section 4(f). Additionally, we will request the FAA include the RT in this action. We strongly believe the RTs current involvement at the insistence of the FAA should include participation in the Environmental Impact Statement process.

Very sincerely,

Lance Brasher
Chairman
DC Metroplex BWI Community Roundtable

CC:

The Honorable Lawrence J. Hogan, Governor, State of Maryland
The Honorable Brian H. Frosh, Attorney General, State of Maryland
The Honorable Andrew P. Harris, MD
The Honorable C.A. Dutch Ruppertsberger
The Honorable Anthony G. Brown
The Honorable John P. Sarbanes
The Honorable Steny H. Hoyer
The Honorable John K. Delaney
The Honorable Elijah E. Cummings
The Honorable Jamie B. Raskin
The Honorable Benjamin L. Cardin
The Honorable Christopher Van Hollen, Jr.
The Honorable Allan H. Kittleman, County Executive
The Honorable Steven R. Schuh, County Executive
The Honorable Jonathan S. Weinstein, County Council Member & Council Chairperson
The Honorable Michael A. Puroutka, County Council Member & Council Chairperson
The Honorable. James E. De Grange
The Honorable Edward J. Kasemeyer
The Honorable Guy J. Guzzone
The Honorable Edward R. Reilly
The Honorable Bryan W. Simonaire
The Honorable Gail H. Bates
The Honorable Shirley Nathan-Pulliam
The Honorable John C. Astle

Attachment (1)

Annual Traffic

Traffic by calendar year

| | Passengers | Change from previous year | Aircraft operations | Cargo (pounds) ^[84] |
|-------------|------------|---------------------------|---------------------|--------------------------------|
| 2006 | 20,698,967 | | 266,790 | 252,413,171 |
| 2007 | 21,044,384 | ▲1.67% | 265,424 | 254,701,295 |
| 2008 | 20,488,881 | ▼2.64% | 249,456 | 225,275,286 |
| 2009 | 20,953,615 | ▲2.27% | 245,522 | 221,302,348 |
| 2010 | 21,936,461 | ▲4.69% | 253,165 | 225,706,183 |
| 2011 | 22,391,785 | ▲2.08% | 258,475 | 237,568,354 |
| 2012 | 22,679,987 | ▲1.29% | 268,186 | 246,366,867 |
| 2013 | 22,498,353 | ▼0.80% | 259,793 | 240,295,725 |
| 2014 | 22,312,676 | ▼0.83% | 245,121 | 231,862,614 |
| 2015 | 23,823,532 | ▲6.77% | 246,464 | 257,266,277 |
| 2016 | 25,122,651 | ▲5.45% | 248,585 | 260,309,358 |
| 2017 | 26,369,411 | ▲4.96% | 261,707 | 370,098,296 |

Attachment 3:

Updated Draft EA and Draft Section 4(f) Determination Comment Response Matrix

June 2020

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|--------------------------|--|-----------|--------------|--|---|-----------|
| ELECTED OFFICIALS | | | | | | |
| 1 | <p>Sen. Pamela G. Beidle <i>The Senate of Maryland, Legislative District 32</i> <i>Anne Arundel County</i></p> <p>This letter was also forwarded from Secretary Gregory Slater, Maryland Department of Transportation</p> | 5/28/2020 | Tree Removal | <p>Thank you for the "virtual meeting" that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation - Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>[Note: The following text was sent in a response letter to Senator Beidle on June 4, 2020. Following delivery of this response to Senator Beidle, it was determined that the VORTAC tree clearing will require mitigation. See Note at end of this response for a correction of this error.]</p> <p>The MDOT MAA is committed to collaborating with the public on proposed safety and improvement plans at BWI Marshall. In collaboration with the Federal Aviation Administration (FAA), this Environmental Assessment has been underway since 2016 with multiple opportunities for public involvement beginning with scoping for the Environmental Assessment, through earlier drafts, our website, public notices and most recently, our virtual workshops. While maintaining a focus on improving safety and meeting federal aviation standards, the projects included in the Draft Environmental Assessment (EA) have been planned to avoid, minimize and mitigate potential environmental impacts. Within the state and federal framework for environmental review, the Draft EA describes the alternatives considered and the many technical evaluations that have shaped these projects and how they do not rise to the level of significant environmental impact.</p> <p>Airport sponsors that have received federal funds are obligated by grant assurances to identify and mitigate hazards to navigable airspace surrounding their airport. The Code of Federal Regulations, Title 14, Part 77 <i>Safe, Efficient Use, and Preservation of the Navigable Airspace</i> (aka Part 77) defines the standards used to determine if an object is an obstruction to air navigation. Part 77 defines imaginary surfaces that, when free of obstructions, provide for the safe operation of aircraft into and out of airports. MDOT MAA must clear these Part 77 imaginary surfaces to meet obligations to the Federal government.</p> <p>As identified and described in the Draft Environmental Assessment and Draft Section 4(f) Determination (Draft document) approximately fifty-two (52) acres of tree clearing on Airport property are needed to meet Part 77 requirements and to allow the safe operation of a critical navigation aid (a VORTAC). Per COMAR 5-1602(b)(11), no mitigation under Maryland's Forest Conservation Act is required for removal of forested areas or individual tree obstructions within these imaginary surfaces and therefore the clearing of these fifty-two (52) acres of trees does not require mitigation and is not considered a significant impact. It is important to clarify that clearing these trees does not necessarily mean removing all of them.</p> <p>There are an additional approximately thirty-one (31) acres of on-airport forest to be cleared to allow the relocation of the Airport's fire training facility (6 acres) and development of an Airline Maintenance Facility (25 acres). For this non-Part 77 related forest clearing, MDOT MAA will adhere to the Maryland Forest Conservation Act to meet forest mitigation requirements. The Draft document identifies the proposed mitigation requirements, by individual project, on Table</p> | Complete. |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|---|-----------|------|-------|---------|---|--------|
| | | | | | <p>5.2.5 (below) for the Sponsor’s Preferred Alternative. This table indicates that MDOT MAA must provide approximately 108 acres of mitigation for removal of forested areas as well as land disturbance for individual projects that exceed 40,000 square feet (regardless of whether forest resources are present).</p> <p>The MDOT MAA is proposing to meet forest mitigation requirements for all proposed projects through placement of Maryland Department of Natural Resources (MDNR) Forest Conservation Easements on MDOT MAA-owned forests within and surrounding the Stony Run Wetlands of Special State Concern (WSSC) area. The Stony Run WSSC area is located just west of Aviation Boulevard in proximity to the proposed Airline Maintenance Facility and within the watershed of the remaining proposed projects. Preparation of the Forest Conservation Easements are well underway, having already been reviewed by MDNR and the FAA. Protecting this area of WSSC in perpetuity will serve the citizens of Maryland by protecting an extensively treed area with valuable natural resources within an urban setting. Additionally, MDOT MAA will adhere to Maryland Department of Environment’s (MDE) <i>Stormwater Management Guidelines for State and Federal Projects</i> to control stormwater runoff for these and other projects included as part of improvements to BWI Marshall.</p> <p>The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. It should be noted that the FAA will participate in the funding of tree obstruction removal only once and MDOT MAA is mindful of this stipulation. MDOT MAA understands the importance of trees in the community but must comply with Federal regulations in order to continue to operate BWI Marshall.</p> <p>Prior to the removal or alteration of any tree on private property, MDOT MAA expects to negotiate individual easements, at appraised fair market value, with each impacted landowner. Fair market value appraisals are prepared by two independent appraisers, which are then reviewed, and a final determination made, by the State. As evidence of this desire to remove only trees that are indeed obstructions or expected to become obstructions, in 2016 MDOT MAA requested access to all private properties potentially impacted by the need to remove obstructions. This initial review was done to identify mature trees. Continued growth was applied to all trees as is required by the FAA when determining Part 77 obstructions. Through this 2016 review it was determined that some trees would not be expected to grow into obstructions and could be left in place. The results of this analysis are illustrated on Figure 5.2-3 in the Draft document. To the future, prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). The</p> | |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|---|-----------|------|-------|---------|---|--------|
| | | | | | <p>process to develop easements and ultimately the coordination for tree removal or alteration will require time. Still, MDOT MAA looks forward to working with individual property owners to ensure the safety of both the community and those traveling into and out of BWI Marshall.</p> <p>The large property that MDOT MAA owns south of Andover Road and adjoining private properties that require selective tree removal or alteration will be reviewed through a forest management plan. Although no mitigation is required to remove these trees, MDOT MAA understands that this area does provide a forested buffer to the community and seeks to only remove trees that are airspace obstructions. MDOT MAA will consider replacement trees that are appropriate (e.g. low growth) for those trees that must be removed.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>Lastly, trees are valuable to our community for their multiple air quality benefits. The action to remove a tree is not taken lightly. However, the safety of the flying public and surrounding community must be our highest priority. For improvements not directly related to safety, MDOT MAA is committed to mitigating tree removal through forest conservation. Through conservation, <i>trees will continue to thrive within Anne Arundel County on MDOT MAA owned property</i> for many years to come.</p> <p>We understand that for some living in the communities neighboring BWI Marshall, the environmental issues associated with the proposed action appear significant. We believe the Draft Environmental Assessment documents that proposed actions are mitigatable and hope you will find our response to public comment acceptable. In the interim, we are continuing our ongoing work with the DC Metroplex BWI Marshall Community Roundtable (BWI Roundtable) to address noise concerns related to the FAA's Nextgen program, and the Residential Sound Insulation Program that is focused on providing sound insulation for eligible residential properties located near the airport. While these programs are not directly associated with this Draft EA, they do show our dedication to be a good neighbor while providing safe and efficient air travel to millions of passengers and hundreds of thousands of tons of air-cargo annually. Together, commercial air travel at BWI Marshall has generated over 100,000 jobs and nearly \$10 billion dollars in annual economic benefit to the residents of Anne Arundel County, Howard County and the State of Maryland. As we continue to</p> | |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------------|-----------------------------|--------------------------|---------|--|---------|-------------|-----------------|-------------------------|-------------------------------|-----|--------------------------|------------------------|---|------|---|----------------------|---|------|---|----------------------|-------------------------------|-----|---|----------------------|-------------------------------------|------|---|-----------------------|----------------------------------|-----|-----------------------------|-----|---------------------------|----|----------------------|-----------------------|-------------------------------|-----|--------------------------|-----|----------------|------|---|----------------------|-------------------------|----|---|-----------------------|---------------------------|-----|---|----------------------|---------------------------------------|----|---------------------------|------------------------|---------------|-----|---|----------------------|---------------------------------------|------|---|-----------------------|-----------------|------|---|----------------------|--|----|-----------------------------|--------------------------|-----------------------------------|------|---|-----------------------|--|---|---|---------------------|--|-----|---|----------------------|---------------------------|-----|------------------------|----------------------|--|
| | | | | | <p>do our part to build a better and safer airport, we thank you for your continued support and understanding.</p> <p style="text-align: center;">Table 5.2.5 Sponsor's Preferred Alternative Forest Mitigation Requirements</p> <table border="1"> <thead> <tr> <th>Project</th> <th>LOD (acres)</th> <th>Forest Clearing</th> <th>Mitigation Requirements</th> </tr> </thead> <tbody> <tr> <td>Relocate Taxiways F and R (1)</td> <td>111</td> <td>5.06 ac. (220,857 sf)</td> <td>21.71 ac. (945,688 sf)</td> </tr> <tr> <td>International Terminal Area Taxiway Fillets/Shoulders (3)</td> <td>14.6</td> <td>0</td> <td>2.19 ac. (95,396 sf)</td> </tr> <tr> <td>New Infill Pavement Near Taxiways T, P and 'Future P' (4)</td> <td>11.6</td> <td>0</td> <td>1.74 ac. (75,794 sf)</td> </tr> <tr> <td>Relocate Taxiways K and L (6)</td> <td>7.9</td> <td>0</td> <td>1.19 ac. (51,836 sf)</td> </tr> <tr> <td>Runway 28 Deicing Pad Expansion (8)</td> <td>16.6</td> <td>0</td> <td>2.49 ac. (108,464 sf)</td> </tr> <tr> <td>Part 77 Obstruction Removal (10)</td> <td>N/A</td> <td>48.21 ac. (2,100,028 sf)</td> <td>N/A</td> </tr> <tr> <td>Taxiway V Relocation (17)</td> <td>35</td> <td>0.02 ac. (871 sf)</td> <td>5.27 ac. (229,561 sf)</td> </tr> <tr> <td>VORTAC Critical Area Clearing</td> <td>6.3</td> <td>6.23 ac. (273,687 sf)</td> <td>N/A</td> </tr> <tr> <td>Taxiway U3 (2)</td> <td>10.8</td> <td>0</td> <td>1.62 ac. (70,567 sf)</td> </tr> <tr> <td>Isolation/RON Apron (7)</td> <td>37</td> <td>0</td> <td>5.54 ac. (241,322 sf)</td> </tr> <tr> <td>Taxiway H Relocation (12)</td> <td>7.1</td> <td>0</td> <td>1.07 ac. (46,609 sf)</td> </tr> <tr> <td>Relocate Fire Training Facility (P45)</td> <td>31</td> <td>22.54 ac. (981,842 sf)</td> <td>16.49 ac. (718,304 sf)</td> </tr> <tr> <td>VSR Connector</td> <td>1.9</td> <td>0</td> <td>0.29 ac. (12,415 sf)</td> </tr> <tr> <td>Runway 15R Deicing Pad Expansion (18)</td> <td>16.3</td> <td>0</td> <td>2.45 ac. 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(25,265 sf)</td> </tr> </tbody> </table> <p>Sources: Forest Conservation mitigation worksheets (Appendix H, Attachment 6), and JMT analysis, 2019.</p> <p>Section 5.2.5, <i>Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> <p>NOTE: Following submission of the above text in a letter to Senator Beidle, the Project Team determined that mitigation is also required for the placement of the relocated VORTAC. As a result, 48 acres (not 52 acres) of obstruction removal on Airport property are needed to meet Part 77 requirements and will not be mitigated. Approximately 35 acres of on-airport trees would therefore be cleared (and mitigated) for the relocation of the fire training facility (6 acres), the construction of the airline maintenance facility (25 acres), and to allow the safe operation of the VORTAC (4 acres). For this non-Part 77 related forest clearing, MDOT MAA will adhere to the Maryland Forest Conservation Act to meet forest mitigation requirements. The individual trees that are identified as obstructions,</p> | Project | LOD (acres) | Forest Clearing | Mitigation Requirements | Relocate Taxiways F and R (1) | 111 | 5.06 ac. (220,857 sf) | 21.71 ac. (945,688 sf) | International Terminal Area Taxiway Fillets/Shoulders (3) | 14.6 | 0 | 2.19 ac. (95,396 sf) | New Infill Pavement Near Taxiways T, P and 'Future P' (4) | 11.6 | 0 | 1.74 ac. (75,794 sf) | Relocate Taxiways K and L (6) | 7.9 | 0 | 1.19 ac. (51,836 sf) | Runway 28 Deicing Pad Expansion (8) | 16.6 | 0 | 2.49 ac. (108,464 sf) | Part 77 Obstruction Removal (10) | N/A | 48.21 ac. (2,100,028 sf) | N/A | Taxiway V Relocation (17) | 35 | 0.02 ac. (871 sf) | 5.27 ac. (229,561 sf) | VORTAC Critical Area Clearing | 6.3 | 6.23 ac. (273,687 sf) | N/A | Taxiway U3 (2) | 10.8 | 0 | 1.62 ac. 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| VORTAC Critical Area Clearing | 6.3 | 6.23 ac. (273,687 sf) | N/A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
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|---|---|----------|--------------|--|---|-----------|
| | | | | | <p>again under Part 77, both on airport and off airport property, will be selectively removed or altered. With the additional acres of VORTAC to mitigate for, MDOT MAA must provide approximately 112 acres (not 108 acres) of mitigation for removal of forested areas as well as land disturbance for individual projects that exceed 40,000 square feet (regardless of whether forest resources are present).</p> <p>The other responses to comments and the Final EA have been updated with the correct acreages.</p> | |
| 2 | Steuart Pittman County Executive, Anne Arundel County | 6/3/2020 | Tree Removal | <p>Thank you for providing detailed information about the Baltimore-Washington International Marshall Airport (BWI) expansion project at a virtual public workshop on May 21, 2020. Based upon the documents provided at this workshop, it is my understanding that the proposed project will result in 83 acres of forest clearing on airport property, additional tree removal offsite on privately owned property, and impacts to wetlands, floodplains and streams. I urge the Maryland Aviation Administration to consider these environmental impacts to be significant, work to minimize the clearing of forests, trees and surface water impacts, and describe in detail mitigation efforts that will provide significant environmental benefits to the watershed and nearby communities.</p> <p>The clearing of forests and wetlands has a significant impact on the health of Anne Arundel County's streams and the Chesapeake Bay. According to the US EPA's Chesapeake Bay Program Model, every acre of impervious surface in Anne Arundel County contributes ten times more nitrogen to the Chesapeake Bay each year than a comparable acre of forest or wetland. ¹ Nitrogen runoff can result in many water quality issues, including fueling harmful algal blooms such as the "Mahogany Tide" that has recently resulted in poor water quality and fish kills in streams across the county.</p> <p>Such significant environmental impacts are preventable if building footprints are designed to minimize the clearing of forests and wetlands, and mitigation efforts are designed to improve environmental outcomes for impacted watersheds and communities. In an effort to avoid such impacts, the Anne Arundel County Council unanimously passed a bipartisan Forest Conservation Ordinance ² earlier this year that guaranteed greater protections for existing forests and increased the amount of replanting required for development projects. Additionally, under my direction, the Anne Arundel Office of Planning and Zoning recently released enhanced wetland mitigation conditions ³ to offset significant environmental impacts caused by wetland disturbances.</p> <p>To further protect our streams and the Chesapeake Bay, I urge the Maryland Aviation Administration to partner with Anne Arundel County to accomplish the following:</p> <ol style="list-style-type: none"> 1. Minimize the clearing of existing forests on BWI property; | <p>See response to Comment #1 for responses to your comment in addition to the following:</p> <p>MDOT MAA understands the County's concerns about clearing forests and wetlands and the effects both have on the County as a whole. MDOT MAA must however provide safe access to BWI Marshall runways through clearing of Part 77 penetrations which includes clearing forested areas. The EA discloses and analyzes the environmental impacts of the tree removal in <i>Section 5.2, Biological Resources</i>, and found that the impacts would not be significant as there would be no long term or permanent loss of unlisted plant or wildlife species. The removal of several large tracts of trees on-airport associated with projects would reduce wildlife attractants (habitat) on the Airport. For the tree removal off-airport, the property will be allowed to regenerate and/or be replanted with low-growing tree species thereby replacing the lost habitat with different yet comparable vegetation for unlisted plants and wildlife. Pursuant to the Annotated Code of Maryland, Natural Resources §5-1602(b)(11), no mitigation under Maryland's Forest Conservation Act is required for removal of forested areas or individual tree obstructions within Part 77 surfaces and therefore the removal of these trees does not require mitigation. As discussed in response to Comment #1, the majority of obstruction removal is for Part 77 penetrations and not due to building footprints. There are approximately 35 acres of on-airport forest to be cleared to allow the relocation of the Airport's fire training facility (6 acres), development of an Airline Maintenance Facility (25 acres) and relocation of a navigational aid (VORTAC, 4 acres). For this non-Part 77 related forest clearing, MDOT MAA will adhere to the Maryland Forest Conservation Act to meet forest mitigation requirements.</p> <p>The MDOT MAA proposes to meet forest mitigation requirements for tree clearing needed to allow for construction of new proposed projects through placement of Maryland Department of Natural Resources (MDNR) Forest Conservation Easements on MDOT MAA-owned forests within and surrounding the Stony Run Wetlands of Special State Concern (WSSC) area. The Stony Run WSSC area is located just west of Aviation Boulevard in proximity to the proposed Airline Maintenance Facility and within the watershed of the remaining proposed projects. Preparation of the Forest Conservation Easements are well underway,</p> | Complete. |

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| | | | | <ol style="list-style-type: none"> 2. Minimize, or eliminate the disturbance of wetlands and their buffers on BWI property; 3. Provide a detailed description of proposed mitigation efforts, including maps and acreage information; 4. Seek opportunities to plant new forests and create new wetlands within the impacted watersheds in addition to any planned preservation of existing forests and wetlands; and 5. Work collaboratively with individual homeowners and Anne Arundel County to replace any private or publicly-owned trees that must be removed with native, understory trees and bushes that provide similar environmental benefits and wildlife habitat. <p>Anne Arundel County and the Maryland Aviation Administration have always worked collaboratively to host and sustain the international transportation hub and economic driver that is BWI. I commit to continue that collaboration as BWI expands its operations in the coming years, and I look forward to partnering on environmental solutions to make that expansion possible.</p> <p>Endnotes:</p> <ol style="list-style-type: none"> 1. The 2018 Progress scenario produced by the Chesapeake Assessment Scenario Tool (CAST) indicates that wetlands and forests in Anne Arundel County contribute approximately 1.26 lbs of nitrogen/acre each year to the Chesapeake Bay, while impervious surfaces contribute approximately 13.05 lbs of nitrogen/acre each year. This represents a 936% increase in nitrogen pollution for every acre of forests that are cleared and replaced with roads, buildings and other impervious surfaces. 2. Bill 68-19: An Ordinance concerning Forest and Development – Forest Conservation. 3. Anne Arundel County Office of Planning and Zoning Green Notice 20-06: Protections and Minimum Mitigation Conditions for Nontidal Wetlands | <p>having already been reviewed by MDNR and the FAA. Protecting this area of WSSC in perpetuity will serve the citizens of Maryland by protecting an extensively treed area with valuable natural resources within an urban setting. If the proposed easements are not viable, for reasons unknown at this time, other mitigation areas will be identified in coordination with appropriate agencies prior to project tree clearing.</p> <p>MDOT MAA will meet wetland and stream mitigation requirements off airport property either through the use of wetland mitigation credits or through the placement of Deed of Restrictive Covenants on MDOT MAA-owned parcels within the Stony Run WSSC. Additionally, individual projects will include stormwater management design and development Erosion and Sediment Control Plans to reduce and minimize impacts to surface waters in accordance with Maryland Department of the Environment guidelines. In areas where trees must be removed for Part 77 purposes (and where other new projects do not require tree removal), tree stumps will remain in order to reduce sediment and erosion.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>In response to the specific bullet points provided:</p> <ol style="list-style-type: none"> 1. Minimize the clearing of existing forests on BWI property; <i>Response: MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</i> | |

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| | | | | | <p>2. Minimize, or eliminate the disturbance of wetlands and their buffers on BWI property; <i>Response: Additional planning efforts reduced the impact impacts from 5.44 acres under the 2015 ALP Alternative to 0.57 acres under the Sponsor's Preferred Alternative. This reduction is in large part due to proposed individual tree removal within wetland rich Part 77 obstruction areas under the Sponsor's Preferred Alternative, as opposed to clear cutting of these forest areas under the 2015 ALP Alternative. In addition, grading refinements for the New Airline Maintenance Facility may result in a further reduction or elimination of wetland impact once the project reaches final design.</i></p> <p>3. Provide a detailed description of proposed mitigation efforts, including maps and acreage information; <i>Response: Detailed forest mitigation requirements, by individual project, are included in Table 5.2.5 (see Response to Comment #1). Maps of the exact areas to be used as mitigation for individual projects are not yet available, but will be included as part of the Forest Conservation Plans submitted to MDNR Forest Service for approval during project final design. The Stony Run WSSC, where conservation easements will be placed to meet mitigation requirements, are illustrated on Figures 4.15-3 and 5.14-7 in the EA.</i></p> <p>4. Seek opportunities to plant new forests and create new wetlands within the impacted watersheds in addition to any planned preservation of existing forests and wetlands; <i>Response: See second paragraph of this response. MDOT MAA will meet wetland and stream mitigation requirements off-site either through the use of wetland mitigation credits or through the placement of Deed of Restrictive Covenants on MDOT MAA-owned parcels within the Stony Run Wetlands of Special State Concern (WSSC). Wetland mitigation on airport property is prohibited due to the potential to attract wildlife hazards.</i></p> <p>5. Work collaboratively with individual homeowners and Anne Arundel County to replace any private or publicly-owned trees that must be removed with native, understory trees and bushes that provide similar environmental benefits and wildlife habitat. <i>Response: Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. MDOT MAA expects to negotiate individual easements, at appraised fair market value, with each impacted landowner. Fair market value appraisals are prepared by two independent appraisers, which are then reviewed, and a final determination made, by the State. After a finding is issued on the Draft</i></p> | |

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| | | | | | <p><i>document, MDOT MAA intends on working with individual landowners and Anne Arundel County to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. In some cases, property owners have requested that MDOT MAA clear more trees on their property than those identified as obstructions. The process to develop easements and ultimately the coordination for tree removal or alteration will require time. Still, MDOT MAA looks forward to working with individual property owners and Anne Arundel County to ensure the safety of both the community and those traveling into and out of BWI Marshall.</i></p> <p>Section 5.2.5, <i>Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> | |
| AGENCY AND ORGANIZATION COMMENTS | | | | | | |
| 3 | Howard County Office of Law | 6/4/2020 | General | <i>Cover Letter Comments received.</i> | <p>MDOT MAA has reviewed the comments from the Howard County Office of Law, dated June 4, 2020, and determined that no changes to the Updated Draft EA are required or warranted in response. The EA was developed in accordance with the Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i>; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i>. The technical analysis conducted to develop the Updated Draft EA provides sufficient information to support the findings included. The FAA will make the decision to perform an EIS or not based on the information in the EA and public comments. None of the Commenter's arguments demonstrate any basis to perform further analysis or reconsider any of the findings set forth in the Updated Draft EA. Specific responses to several specific comments are set forth below, but the following general points address the Commenter's principal concerns:</p> <ul style="list-style-type: none"> The Updated Draft EA correctly assumes the use of the TERPZ6 flight procedure, together with the existing suite of arrival and departure procedures at BWI Marshall as described in <i>Appendix K-4: NextGen DC Metroplex Post-Implementation Revisions and Potential Impacts on BWI Marshall EA Noise Contours</i>. Those are the flight procedures currently in effect and correctly represent where aircraft fly and where noise impacts can be expected. MDOT MAA acknowledges that both MDOT MAA and the Commenter have challenged the TERPZ6 and other procedures in federal court and have requested that the FAA prepare a supplemental EA to address impacts caused by the implementation of NextGen. On August 11, 2020, the Court ruled to dismiss Howard County's petition for review of FAA's TERPZ6 | No change. |

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| | | | | | <p>procedure. Therefore, until the FAA adopts new procedures, the TERPZ6 and other procedures remain in effect. MDOT MAA appropriately used those procedures as the basis for its assessment of noise impacts.</p> <ul style="list-style-type: none"> • The Updated Draft EA considers the environmental impacts, including noise impacts, of the Project as required by NEPA, Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i>; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i>. As the Commenter notes, the Updated Draft EA analysis discloses the expected noise impacts from operations at BWI Marshall including the use of the TERPZ6 departure procedure, and concludes that (1) the Project itself will not cause any increase of noise impacts beyond the Airport property, and (2) even assuming use of the TERPZ6 departure procedure, the 65 DNL contour line will extend a short distance into Howard County, and (3) there will be no significant noise impacts on noise sensitive land uses within that portion of Howard County or elsewhere. That analysis assumes the use of the TERPZ6 departure procedure and therefore fully considers the environmental impacts of the Project as required by applicable law. The EA does not “sweep any issues under the rug” or otherwise fail to consider any relevant environmental issues. To the contrary, the EA assumes the use of the procedures that the Commenter feels impose the greatest noise impact and analyzes those impacts. The Commenter does not suggest what further noise analysis could have been performed. • This EA is not the appropriate place to examine alternatives to the TERPZ6 departure procedure, or any other flight procedure or flight paths at BWI Marshall. First, the FAA’s environmental review of DC Metroplex Optimization of Airspace and Procedures (OAPM) airspace changes are not part of the Proposed Action evaluated in this document but are considered cumulatively as part of existing conditions. Second, nothing about the Proposed Project triggers the need to consider changes in flight procedures or airspace design. The Proposed Project consists of ground improvements that do not affect (1) the number or types of aircraft operations or (2) the flight paths aircraft will use. The Project allows MDOT MAA to accommodate projected demand – which will occur with or without the Project – with higher degree of efficiency and quality of service by making improvements to ground facilities. The same number of aircraft will use BWI Marshall regardless of whether the Project is built or not, and the FAA’s decisions on which flight procedures aircraft will use, including the TERPZ6 departure procedure, do not depend on whether the Project is built or not. Specifically, the FAA’s decision to adopt the TERPZ6 departure procedure did not depend on whether the Project would be built or not. Conversely, the FAA will not replace the TERPZ6 procedure based on any aspect of the Project. Changes in | |

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| | | | | | <p>airspace design are not reasonable alternatives to the Proposed Project and do not need to be evaluated as part of this EA.</p> <ul style="list-style-type: none"> • The MDOT MAA had no requirement to consult with Howard County on the development of the (original or updated) Draft EA as the County's resources, again as defined by FAA Order 1050.1F, are not impacted by the Proposed Action. However, MDOT MAA included advertisement of the Updated Draft EA and Draft Section 4(f) determination in the Howard County Times and placed the document in multiple Howard County libraries to facilitate public review and to assure transparency. • The noise analysis in the original Draft EA was sufficient and did not require correction. The decision to update the Draft EA was made to allow the public to review comments made on the original Draft EA which includes an updated analysis on the currency of the radar data used in the noise analysis. This analysis showed that the noise analysis in the original Draft EA was indeed representative of operations performed at BWI Marshall. See Appendix K-3. Although the FAA made post-implementation revisions to the procedures included in the NextGen DC Metroplex procedures, those changes were beyond the radar data used to define flight tracks in the original Draft EA and do not influence the resulting DNL 65 dBA contour. The update also was completed, importantly, to update the forecast and modified fleet plans that have occurred since the original Draft EA, which includes the Midfield Cargo Facility project, again to provide a more recent definition of existing conditions. | |
| 4 | Howard County Office of Law | 6/4/2020 | | In addition to our 2018 Comments, these Comments incorporate by reference documents that detail the context and facts ignored by the Updated Draft EA. These include the filings by the State of Maryland in U.S. Court of Appeals for the District of Columbia Case No. 18-1302, as well as Howard County's filings in U.S. Court of Appeals for the Fourth Circuit Case No. 19-1062, which are in the possession of MAA as Intervenor-Respondent. The County also incorporates its filings in U.S. Court of Appeals for the Fourth Circuit Case No. 18-2360, attached hereto as Attachment A. | Comment noted; attachments received. These documents are not relevant to the Proposed Action evaluated in the Updated Draft EA. | No change. |
| 5 | Howard County Office of Law | 6/4/2020 | | The EA should be converted to an EIS that examines relevant significant impacts that so far have escaped the reviews required by NEPA, Section 4(f), and the NHPA (the "Federal Statutes"). MAA cannot rely on existing conditions that it has admitted are unlawful as a reasonable baseline for measuring the significance of impacts. Nor can MAA totally ignore the highly controversial issues surrounding the airport and the expansion by sweeping evidence "under the rug." Because of the faulty analysis and the failure to consult with Howard County, it would be arbitrary and capricious for FAA to find that there are no significant impacts from the proposed actions. | See response to Comment #3. The FAA will make the decision to perform an EIS or not based on the information in the EA and public comments. The FAA will determine whether environmental impacts associated with the Proposed Action (e.g., wetlands and forest impacts) in the BWI Marshall EA are significant with the application of appropriate mitigation measures as agreed to by the responsible resource agencies (i.e., U.S. Army Corps of Engineers (USACE), Maryland Department of Environment (MDE) and Maryland Department of Natural Resources (MDNR), Maryland Historical Trust (MHT)). Coordination with USACE, MDE, MDNR and MHT has occurred during the development of the Draft EA, see | No change. |

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| | | | | | Appendix H, J, L and M. MDOT MAA correctly developed existing conditions, inclusive of noise conditions, based on 2018/2019 conditions. | |
| 6 | Howard County Office of Law | 6/4/2020 | | In fact, the Updated Draft EA is clear that the proposed actions will cause significant impacts in Howard County due to the intrusion of the 65 DNL noise contour across the County line. Yet, the EA fails to acknowledge or discuss that impact, or the fact that the significant impacts of the 65 DNL noise contour in Howard County have never been reviewed under the Federal Statutes and Howard County has never been consulted by MAA, despite clear legal requirements to do so. MAA's approach violates Maryland and federal law. The Updated Draft EA must be converted to an EIS that analyzes the consequences of FAA's unlawful action in moving flight paths, from planned areas designated in law to new unplanned noise sensitive areas, without notice or review, as well as the cumulative consequences that will occur because of the proposed actions. | See response to Comment #3. While the 65 DNL contour does extend minimally into Howard County under the No Action and Proposed Action Alternatives, there is no significant noise impact associated with the Proposed Action and no consultation is required as there is nothing to consult on. The Existing Condition 65 DNL noise contour includes portions of Howard County. Both the No Action and Proposed Action 65 DNL noise contours also include portions of Howard County (to the same extent). The 65 DNL noise contour would include portions of Howard County without the proposed improvements and therefore aircraft noise at that level within Howard County may exist independent of the Proposed Action. The MDOT MAA had no requirement to consult with Howard County on the development of the (original or updated) Draft EA as the County's resources, again as defined by FAA Order 1050.1F, are not impacted by the Proposed Action. However, MDOT MAA included advertisement of the Updated Draft EA and Draft Section 4(f) determination in the Howard County Times and placed the document in multiple Howard County libraries to facilitate public review and to assure transparency. Additionally, following the 2018 Draft EA, <i>Appendix K-4: NextGen DC Metroplex Post-Implementation Revisions and Potential Impacts on BWI Marshall EA Noise Contours</i> was developed specifically in response to Howard County comments on the Draft EA. The Draft EA was updated and recirculated to provide additional opportunity for the public, including Howard County, to weigh in on responses to previous comments. | No change. |
| 7 | Howard County Office of Law | 6/4/2020 | | Howard County intends to challenge any finding of no significant impact based on the Updated Draft EA because such a finding would be irrational, arbitrary and capricious, and otherwise not in accord with the law. | Comment noted. See response to Comment #3. The FAA will determine whether environmental impacts associated with the Proposed Action (e.g., wetlands and forest impacts) in the BWI Marshall EA are significant with the application of appropriate mitigation measures as agreed to by the responsible resource agencies (i.e., U.S. Army Corps of Engineers (USACE), Maryland Department of Environment (MDE) and Maryland Department of Natural Resources (MDNR), Maryland Historical Trust (MHT). Coordination with USACE, MDE, MDNR and MHT has occurred during the development of the Draft EA, see Appendix H, J, L and M. MDOT MAA correctly developed existing conditions, inclusive of noise conditions, based on 2018/2019 conditions. The analysis is not arbitrary and capricious as it has been developed in coordination with applicable resource agencies and in accordance with FAA Order 1050.1F. | No change. |
| 8 | Howard County Office of Law | 6/4/2020 | | The Updated Draft EA Fails to Take the Required "Hard Look" at Environmental Impacts. | See response to Comment #3. The Proposed Action for this Updated Draft EA and Draft Section 4(f) document does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. | No change. |

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| | | | | MAA's refusal to "candidly acknowledge" the significant environmental impacts in Howard County that have occurred without any review, and which will be exacerbated by the proposed action, does not meet the "hard look" requirements of the Federal Statutes. Given MAA's pending lawsuit against FAA for implementing unlawful flight path changes, MAA's reliance on those illegal flight paths as existing conditions is specious, particularly because MAA fails to even acknowledge the controversy and uncertainty in the Updated Draft EA. | | |
| 9 | Howard County Office of Law | 6/4/2020 | | MAA cannot continue to ignore noise impacts in Howard County. The proposed action will clearly result in the intrusion of the 65 DNL noise contour into Howard County. This is a significant impact. MAA may not rely on the argument that unlawful existing conditions moot the impacts of the proposed action. MAA has challenged the existing conditions in federal court because, according to MAA, FAA violated multiple laws in implementing the flight paths. Thus, MAA has acknowledged, outside of the Updated Draft EA, that the significant impacts of the 65 DNL noise contour entering Howard County have never been reviewed in any environmental, historic, or Section 4(f) assessment even though such reviews are required by law. MAA cannot rely on what it asserts are illegal existing conditions to justify impacts that, in and of themselves, will expand the 65 DNL noise contour into Howard County. The failure of the Draft EA to even address these issues demonstrates that it does not meet the legal requirements of the Federal Statutes. | See response to Comment #3. MDOT MAA notes specifically that the Updated Draft EA does consider the noise impacts of the Proposed Action and concludes that there are no significant impacts on Howard County resources. The Commenter does not present any factual material that requires further noise analysis. While the 65 DNL contour does extend minimally into Howard County under the No Action and Proposed Action Alternatives, there is no significant noise impact associated with the Proposed Action and no consultation is required as there is nothing to consult on. The Existing Condition 65 DNL noise contour includes portions of Howard County. Both the No Action and Proposed Action 65 DNL noise contours also include portions of Howard County (to the same extent). The 65 DNL noise contour would include portions of Howard County without the proposed improvements and therefore aircraft noise at that level within Howard County may exist independent of the Proposed Action. | No change. |
| 10 | Howard County Office of Law | 6/4/2020 | | MAA acknowledges that the proposed actions are intended to accommodate increased demand. This will clearly result in an increased use of the runways and unlawful flight tracks. EA Response 15. ¹ Despite this, MAA also asserts that the proposed actions will not cause increased operations. It is irrational for MAA to seek approval for the proposed actions because they are "needed" to "accommodate existing demand," while at the same time claiming that the proposed actions will not "materially affect" BWI's ability to "accommodate overall aircraft operations demand." This false dichotomy is simply an effort to escape required reviews and consultation. | See response to Comment #3. As described in Section 2.1.2.3 of the EA/Section 4(f) Determination, there are improvements included in the Proposed Action that are needed to allow BWI Marshall to provide a quality level of service to the airlines and the traveling public. Some existing demand would be better served with the proposed improvements. For example, there is a current need for 17 remain overnight parking (RON) positions however there are currently only 16 positions at BWI Marshall. Because there are not enough RON positions there are times when early morning arrivals are delayed getting to the gate. This delay is encountered because the arriving aircraft must wait while an aircraft that docked at the gate overnight, without a scheduled early morning departure, must be moved off the gate to allow the aircraft that arrived early to dock. Having the additional RON position will not increase operations but serve to better accommodate existing operations. The additional proposed RON positions will serve the same purpose as operations continue to grow due to public demand to travel. Without the proposed improvements, operations will continue to grow at BWI Marshall, presuming that the public's desire to fly continues to grow, as there are no constraints to continued growth. Specifically, this means that the airfield, general aviation, terminal, landside and support facilities can accommodate additional operations without the proposed improvements as all these facilities still have additional capacity available. However, over time those using BWI | No change. |

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| | | | | | Marshall will experience a lower level of service (e.g. delay may be experienced in departures and arrivals) if the proposed improvements are not constructed. An example of this situation is the proposed new airline maintenance facility. BWI Marshall could continue to complete aircraft maintenance at the gate or at various apron areas. However, to make maintenance procedures more efficient and thereby reduce the potential for delays associated with inefficient maintenance techniques, as well as improve worker conditions, the new airline maintenance facility is needed to accommodate both existing and future demand. | |
| 11 | Howard County Office of Law | 6/4/2020 | | <p>Id. The doublespeak renders the Updated Draft EA legally insufficient.</p> <p>The proposed action will enable additional flight operations at BWI. MAA's admitted failure to analyze these impacts, (EA Response 15 and 17), means the EA is deficient. If the improvements are "necessary to accommodate the level of operations and passengers anticipated" they are obviously cumulatively, directly, and indirectly related to those increases. The fact that the proposed actions may not "unto themselves drive" growth, does not mean they will not contribute to increased operations such that those impacts can be ignored. Id. Any increase operational capacity will result in increased operations. Focusing solely on demand is arbitrary and capricious.</p> <p>Footnote: 1 References are to Responses to Howard County Comments in Appendix N, unless otherwise identified</p> | <p>See response to Comment #3.</p> <p>The Proposed Action improvements do not enable additional flight operations. The improvements included in the Proposed Action are needed to allow BWI Marshall to provide a quality level of service to the airlines and the traveling public. Without the proposed improvements, operations will continue to grow at BWI Marshall, presuming that the public's desire to fly continues to grow, as there are no constraints to continued growth. Specifically, this means that the airfield, general aviation, terminal, landside and support facilities can accommodate additional operations without the proposed improvements as all these facilities still have additional capacity available.</p> | No change. |
| 12 | Howard County Office of Law | 6/4/2020 | | <p>MAA's Reliance on Unlawful "Existing Conditions" is Unreasonable and Arbitrary and Capricious.</p> <p>MAA wrote in response to Comments on the 2018 Draft EA, that "the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial." EA Response 9, 14, 19, 20-23. This could not be further from the truth and clearly shows how the Updated Draft EA fails to meet basic legal requirements. The Noise Compatibility Program was mandated by Congress and implements a significant program of cooperative federalism to limit airport noise pollution with the assistance of State and local government. The MAA has engaged in federal litigation against FAA for violations of this program and it is therefore directly relevant to any analysis of noise at the airport.</p> | <p>Comment noted. The Commenter has not presented any information that would cause MDOT MAA to revisit its conclusion that the Part 150 NCP for BWI Marshall has no bearing on the noise analysis completed for the original and Updated Draft EA. Participation in the development of a Part 150 Study (development of noise exposure maps and a noise compatibility program) by an airport sponsor is voluntary. The intent of the program is to reduce the number of people who live in significantly noise-impacted areas through a structured review of noise abatement strategies. Part 150 provides an approach for airport operators, airlines, pilots, neighboring communities, and the FAA to work together to achieve this goal. A Part 150 NCP does not establish flight procedures. As required by law, the Updated Draft EA analyzed noise based on actual flight paths. MDOT MAA notes, further, that MDOT MAA is working with the FAA and the BWI Community Roundtable on potential future changes to flight procedures to address, among other things, noise concerns. At the appropriate time after any future changes MDOT MAA will initiate an update to its Part 150 Noise Exposure Maps and Noise Compatibility Program. The commenter incorrectly indicates that the FAA would approve the return to previous (historic) procedures if the BWI Community Roundtable consented to this action. The BWI Community Roundtable was formed to work with the FAA to consider procedural changes</p> | No change. |

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| | | | | | that could be made to address concerns by the surrounding communities in response to the DC Metroplex procedural changes. | |
| 13 | Howard County Office of Law | 6/4/2020 | | MAA cannot rely solely on existing conditions without further analysis and explanation. | See response to Comment #3. The Updated Draft EA correctly assumes the use of the TERPZ6 flight procedure, together with the existing suite of arrival and departure procedures at BWI Marshall as described in <i>Appendix K-4: NextGen DC Metroplex Post-Implementation Revisions and Potential Impacts on BWI Marshall EA Noise Contours</i> . Those are the flight procedures currently in effect and correctly represent where aircraft fly and where noise impacts can be expected. MDOT MAA acknowledges that both MDOT MAA and the Commenter have challenged the TERPZ6 and other procedures in federal court and other laws when it adopted those procedures, and have requested that the FAA prepare a supplemental EA to address impacts caused by the implementation of NextGen. On August 11, 2020, the Court ruled to dismiss Howard County's petition for review of FAA's TERPZ6 procedure. Therefore, until the FAA adopts new procedures, the TERPZ6 and other procedures remain in effect. MDOT MAA appropriately used those procedures as the basis for its assessment of noise impacts. | No change. |
| 14 | Howard County Office of Law | 6/4/2020 | | EA at K-2.4.8; K-3.2.8. MAA failed to comply with the law by using track geometry that: 1) is the subject of multiple federal lawsuits, including one brought by MAA claiming those tracks are illegal, and 2) has a high likelihood of imminent change based on MAA's characterization of FAA plans during the public presentation (although MAA did not discuss this in the Updated Draft EA in violation of the Federal Statutes). | See response to Comment #3. The Updated Draft EA correctly used current radar data to develop track geometry for existing and future noise exposure. Environmental review must be based on actual conditions or proposed actions. No revised flight procedures have been formally proposed by the FAA, the entity with exclusive authority over flight procedures. At this time any potential changes in flight procedures would be speculative. Should the FAA determine that procedures are to be modified in response to the BWI Community Roundtable requests, those changes must be reviewed environmentally prior to any changes to now existing track geometry as was discussed during the public workshops for the Updated Draft EA. | No change. |
| 15 | Howard County Office of Law | 6/4/2020 | | On October 22, 2015, MAA wrote to FAA complaining that FAA had implemented flight procedure changes that failed to comply with the federal Noise Compatibility Program ("NCP") or the State's Noise Abatement Plan ("NAP"), which is required by the NCP and State law. When FAA did not respond, MAA followed-up with additional correspondence to FAA noting that the flight path changes were not addressed in an environmental assessment. Members of Congress, the Governor of Maryland, and local elected officials all asked FAA to return to the agreed-upon NCP and NAP. Finally, FAA agreed to do so if a Community Roundtable was formed that consented to a return to historic flight paths. | See response to Comment #12. Additionally, the commenter incorrectly indicates that the FAA would approve the return to previous (historic) procedures if the BWI Community Roundtable consented to this action. The BWI Community Roundtable was formed to work with the FAA to consider procedural changes that could be made to address concerns by the surrounding communities in response to the DC Metroplex procedural changes. The FAA indicated that they cannot revert to the conventional system of navigation in a letter to the Roundtable in November 2017. | No change. |
| 16 | Howard County Office of Law | 6/4/2020 | | At its first meeting, the BWI Community Roundtable unanimously voted to ask FAA to return to historic flight paths that had been in place as part of Part 150 NCP for decades. The historic flight paths were carefully planned over non-residential areas where development was prohibited in favor of other areas. Now all that planned development is impacted by the changed flight paths | See responses to Comments #3 and 12. Regardless, the Proposed Action in this EA does not change operations nor flight paths into or out of BWI Marshall. | No change. |

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| | | | | because of FAA’S unilateral and unlawful decisions. Disregarding its promises, FAA still has not made any real attempt to return to the NCP and NAP. Yet MAA ignores all of this, in clear violation of the law. The Federal Statutes require more. | | |
| 17 | Howard County Office of Law | 6/4/2020 | | After repeatedly asking FAA to remedy its illegal and harmful action, MAA filed a federal lawsuit against FAA to require FAA to comply with the law. MAA has acknowledged that the TERPZ 6 changes caused significant impacts in Howard County but, despite multiple legal requirements to do so, neither FAA nor MAA has ever consulted with Howard County about these significant impacts. Now, MAA wishes to make more changes to flight operations at BWI that will result in additional significant noise impacts in Howard County. But MAA still has not consulted with Howard County. Instead, MAA relies on the faulty logic that the current existing conditions - which MAA has argued in federal court are unlawful - are the correct status quo and sole basis against which to consider the impacts of the action proposed in the Updated Draft. This is not legally correct. The Updated Draft EA must include a candid acknowledgement of the environmental context and evaluate how reasonably foreseeable actions and uncertainty affect its analysis. | See response to Comment #3. MDOT MAA has acknowledged community concerns surrounding implementation of NextGen but they have not acknowledged any “significant impacts.” MDOT MAA has requested that the FAA prepare a supplemental EA to address impacts caused by the implementation of NextGen. The Proposed Action analyzed in the BWI Marshall EA does not influence operations into or out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport. In addition, there are currently run-up operations ongoing at various locations, some of which will be moved to the New Airline Maintenance Facility. The maintenance facility area where additional run-up operations may occur (and the potential increase in noise exposure) is north of Runway 10, which is mostly contained within Airport property and is entirely within compatible land uses. Additionally, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. | No change. |
| 18 | Howard County Office of Law | 6/4/2020 | | The Updated Draft EA Unlawfully Ignores Relevant Information Including the Highly Uncertain Nature of “Existing Conditions.” The Federal Statutes require an open and transparent acknowledgement of the facts and the context. The Updated Draft EA does not do that. Any reasonable environmental assessment cannot completely ignore important elements in the context of noise at BWI. Environmental assessments that ignore important aspects of a problem, or that explain decisions in a manner contrary to the evidence are unlawful because ignoring important aspects of a problem is arbitrary and capricious. MAA should not continue to attempt to evade review of the significant impacts that MAA admits have occurred in Howard County and will continue to occur because of the proposed action. | See response to Comment #3. Regardless, the Proposed Action in this EA does not change operations or flight paths into or out of BWI Marshall. The EA accurately analyzes all impacts resulting from the Proposed Action projects. | No change. |
| 19 | Howard County Office of Law | 6/4/2020 | | MAA ignored a vast array of information: noise contour changes in Howard County, MAA claims that FAA violated the NCP, the work of the BWI Community Roundtable, and public comments collected by FAA and MAA attesting to significant noise impacts that have never been reviewed. MAA’s Administrative Petition to FAA characterized FAA’s unlawful implementation of the unlawful flight paths as a “fundamental failure” of the environmental assessment process, and noted an astounding 4,100% increase in noise complaints, a number that has since grown exponentially. This is tremendously relevant to the environmental context at BWI, but MAA never mentions it. | See responses to Comments #3 and 12. The Proposed Action will not induce operations and therefore will not cause noise increases, except for the potential to increase aircraft maintenance run-up operations which are evaluated near the proposed Airline Maintenance Facility. Additionally, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. | No change. |

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| 20 | Howard County Office of Law | 6/4/2020 | | Nor is there any logic to MAA's position that it did not consider these impacts because the proposed action does not involve flight path changes. It is not about the flight path changes, it is about noise, which the proposed actions will increase. MAA admits that the proposed actions will cause the 65 DNL noise contour to enter into Howard County. Thus, even if MAA wins its legal challenge to FAA's unlawful action, the Updated Draft EA will have established a new "existing condition" of the 65 DNL in Howard County, so it will not be reviewed as a significant impact in the future. This house of cards does not satisfy the Federal Statutes. | See response to Comment #3. While the 65 DNL contour does extend minimally into Howard County under the No Action and Proposed Action Alternatives, there is no significant noise impact associated with the Proposed Action and no consultation is required as there is nothing to consult on. The Existing Condition 65 DNL noise contour includes portions of Howard County. Both the No Action and Proposed Action 65 DNL noise contours also include portions of Howard County (to the same extent). The 65 DNL noise contour would include portions of Howard County without the proposed improvements and therefore aircraft noise at that level within Howard County may exist independent of the Proposed Action. | No change. |
| 21 | Howard County Office of Law | 6/4/2020 | | Under NEPA, MAA may not ignore relevant information adverse to its decision. The statute requires a discussion of "any inconsistency with approved state or local plans and laws (whether or not federally sanctioned)." 40 CFR 1506.2(d). MAA efforts to ignore those plans and Howard County violate NEPA and the other Federal Statutes. | See response to Comment #3. MDOT MAA did not ignore any relevant information adverse to the Proposed Action and relies on flight procedures as approved by the FAA, which has exclusive regulatory authority for the national airspace. | No change. |
| 22 | Howard County Office of Law | 6/4/2020 | | The proposed actions are clearly connected to activity levels and are meant to increase aircraft operations, including night operations. EA at K-3-2. Those operations will use the unreviewed and unlawful new flight paths. MAA cannot simply point to comments in an Appendix as sufficient discussion of this important information. This is especially true because, even though MAA has admitted that it had faulty data in the 2018 Draft and revised its noise analysis using some new data, it did nothing to update its Responses to comments about flight track and noise data. EA at N-1. | See response to Comment # 3. The majority of projects associated with the Proposed Action are not connected to activity levels. The Proposed Action is intended to accommodate existing and anticipated passenger demand but would not increase aircraft operations as there is enough existing capacity to meet anticipated passenger demand within existing facilities, although at a lower level of service. Because the Proposed Action includes no changes to flight procedures the existing flight paths were used to analyze the future noise at the Airport. Part of the purpose of updating the 2018 Draft EA was to allow the public to see the response to comments on the original Draft EA. The comment response in no way indicates that the original noise analysis within the January 2018 Draft EA was faulty. See Appendix K-3. | No change. |
| 23 | Howard County Office of Law | 6/4/2020 | | MAA may not ignore the harms caused by airport operations, which MAA itself has argued are illegal, and subsequently rely upon them to satisfy the reviews required by the Federal Statutes. | See response to Comment #17. MDOT MAA has acknowledged community concerns surrounding implementation of NextGen but they have not acknowledged any "significant impacts." MDOT MAA has requested that the FAA prepare a supplemental EA to address impacts caused by the implementation of NextGen. The Proposed Action analyzed in the BWI Marshall EA does not influence operations into or out of BWI Marshall, flight tracks, track use, or runway use. | No change. |
| 24 | Howard County Office of Law | 6/4/2020 | | An EA must provide the public with sufficient environmental information, "considered in the totality of the circumstances," to permit the members of the public to weigh in with their views and thus inform the agency decision-making process. The Updated Draft EA does not do that. | See response to Comment # 3. The EA was prepared pursuant to law, including FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i> ; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i> . Sufficient environmental information is provided for the public to render comments and for agencies to render their opinion on impact. See Appendix M for agency consultation and Comment responses #55 through #63 of this matrix for agency comments on the Updated Draft EA. | No change. |

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| 25 | Howard County Office of Law | 6/4/2020 | | As a result, MAA incorrectly frames the alternatives analysis. The “No Action” alternative assumes the continuation of the status quo, but that is highly unlikely due to the State’s and the County’s lawsuit against FAA, not to mention planned FAA changes to flight paths of which MAA is apparently aware because it mentioned them in the public presentation, although it did not discuss them in the Updated Draft EA, as it should have. In the face of such uncertainty, NEPA requires a thorough study of relevant evidence. 40 CFR § 1502.22(b). | See response to Comment # 3. The EA correctly uses existing flight paths to analyze the noise exposure for existing conditions and carries those flight paths forward for review of future conditions as the EA cannot presuppose any changes that may occur in the future. As discussed in the public meeting, if changes are to be made the FAA will complete an environmental review (i.e., CATEX, EA or EIS) to review the potential environmental consequences of flight path changes. After that process is complete future environmental documents developed by MDOT MAA will incorporate those changes. NEPA requires that analysis be based on fact not speculation. | No change. |
| 26 | Howard County Office of Law | 6/4/2020 | | A true study of cumulative impacts requires MAA to discuss past impacts and include a candid acknowledgement of the highly controversial nature of current BWI operations. 40 CFR §1508.27(b)(4). MAA acknowledged the “serious” controversy repeatedly in its federal lawsuit against FAA; thus, under NEPA, it must carefully evaluate these “highly controversial” or “highly uncertain” impacts in an EIS. 40 CFR § 1508.27(b)(4) - (5). FAA Order 1050.1F also requires that, where an action may be “highly controversial” because of noise issues, an EIS should be prepared. Order 1050.1F at ¶¶ 6.4, 6.2.2(g) and at B-5. | See response to Comment # 3. See also Section 4.16, <i>Past, Ongoing and Reasonably Foreseeable Projects</i> , and Section 5.16, <i>Cumulative Impacts</i> . Section 5.16.4 acknowledges that there have been noise complaints due to the DC metroplex project. The commenter misquotes FAA Order 1050.1F. Under FAA Order 1050.1F at B-1.5 “When the proposed action or alternative(s) would result in a significant noise increase and the proposed action or alternative is highly controversial on this basis, the EIS should include, as appropriate in light of the specific proposal under analysis, information on the human response to noise.” See response to Comment #8, there are no significant noise impacts due to the Proposed Action. | No change. |
| 27 | Howard County Office of Law | 6/4/2020 | | The Fourth Circuit Court of Appeals specifically addressed this in <i>Nat’l Audubon Society v. Dept. of Navy</i> , 422 F.3d 174, 196 (4th Cir. 2005), a case involving similar circumstances. NEPA’s hard look requires analysis of the combined impact that may result from tens of thousands of flights potentially passing over or near the same geographic area. | See responses to Comments #3 and 26. The case referenced is immaterial to the Proposed Action at BWI Marshall. In the cited case, the Department of Navy failed to analyze the cumulative impacts of specific proposed flight procedures on operations from one site even through it analyzed the impacts of those proposed procedures on flights from another site. Here, no changes to flight procedures have been proposed, so there is nothing further to evaluate. MDOT MAA is working with the FAA and the BWI Community Roundtable to develop new flight procedures to address noise concerns, but until those discussions lead to a formal proposal there are no reasonably foreseeable changes in procedures that NEPA requires be analyzed in the Updated Draft EA. | No change. |
| 28 | Howard County Office of Law | 6/4/2020 | | Because of the controversy and uncertainty, MAA should prepare an EIS that takes a fair and honest look at the unreviewed significant impacts that have occurred and will continue to occur as a result of the proposed actions. | See responses to Comments #3, 26, and 27. The controversy the Commenter refers to relates to FAA’s decision to implement NextGen procedures, and not to any aspect of the Proposed Project itself. Moreover, the FAA will make the decision to perform an EIS or not based on the information in the EA and public comments. | No change. |
| 29 | Howard County Office of Law | 6/4/2020 | | The Partially Corrected Faulty Noise Analysis Still Fails to Adequately Address Significant Noise Impacts in Howard County MAA’s discussion of noise impacts is misleading and incomplete. Appendix K identifies increases to the noise contour but, totally ignoring MAA’s federal lawsuit challenging the TERPZ 6 flight procedure, ascribes the changes to “several factors including the differences in the noise models and fleet mixes.” EA at K-2-14. This is simply not correct. Those differences may be relevant but the primary factors in noise contour changes off Runway 28 are the illegal flight | See responses to Comments #3 and 17. The legality of TERPZ6 is not the concern of this NEPA document. This EA is not the appropriate place to examine alternatives to the TERPZ6 departure procedure, or any other flight procedure or flight paths at BWI Marshall. First, the FAA’s environmental review of DC Metroplex Optimization of Airspace and Procedures (OAPM) airspace changes are not part of the Proposed Action evaluated in this document but are considered cumulatively as part of | No change. |

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| | | | | <p>path changes including TERPZ 6. Figure K-2-4 shows the dramatic increase in size of the 65 DNL noise contour from what was expected though Part 150 planning. MAA cannot continue to ignore the fact that FAA's abandonment of Part 150 planning is the primary cause of the increase.</p> | <p>existing conditions. Second, nothing about the Proposed Project triggers the need to consider changes in flight procedures or airspace design. The Proposed Project consists of ground improvements that do not affect (1) the number or types of aircraft operations or (2) the flight paths aircraft will use. The Project allows MDOT MAA to accommodate projected demand – which will occur with or without the Project – with higher degree of efficiency and quality of service by making improvements to ground facilities. The same number of aircraft will use BWI Marshall regardless of whether the Project is built or not, and the FAA's decisions on which flight procedures aircraft will use, including the TERPZ6 departure procedure, do not depend on whether the Project is built or not. Specifically, the FAA's decision to adopt the TERPZ6 departure procedure did not depend on whether the Project would be built or not. Conversely, the FAA will not replace the TERPZ6 procedure based on any aspect of the Project. Changes in airspace design are not reasonable alternatives to the Proposed Project and do not need to be evaluated as part of this EA.</p> <p>See response to Comment #12, specific to Part 150.</p> <p>Participation in the development of a Part 150 Study (development of noise exposure maps and a noise compatibility program) by an airport sponsor is voluntary. The intent of the program is to reduce the number of people who live in significantly noise-impacted areas through a structured review of noise abatement strategies. Part 150 provides an approach for airport operators, airlines, pilots, neighboring communities, and the FAA to work together to achieve this goal. A Part 150 NCP does not establish flight procedures.</p> | |
| 30 | Howard County Office of Law | 6/4/2020 | | <p>According to other MAA statements on the record, FAA's unilateral and illegal movement of Runway 28 departures 13 degrees to the north, over noise sensitive areas, was the primary cause of the increase.</p> | <p>See response to Comment #3. The legality of FAA flight procedures is not the concern of this NEPA document.</p> <p>This EA is not the appropriate place to examine alternatives to the TERPZ6 departure procedure, or any other flight procedure or flight paths at BWI Marshall. First, the FAA's environmental review of DC Metroplex Optimization of Airspace and Procedures (OAPM) airspace changes are not part of the Proposed Action evaluated in this document but are considered cumulatively as part of existing conditions. Second, nothing about the Proposed Project triggers the need to consider changes in flight procedures or airspace design. The Proposed Project consists of ground improvements that do not affect (1) the number or types of aircraft operations or (2) the flight paths aircraft will use. The Project allows MDOT MAA to accommodate projected demand – which will occur with or without the Project – with higher degree of efficiency and quality of service by making improvements to ground facilities. The same number of aircraft will use BWI Marshall regardless of whether the Project is built or not, and the FAA's decisions on which flight procedures aircraft will use, including the TERPZ6 departure procedure, do not depend on whether the Project is built or not. Specifically, the FAA's decision to adopt the TERPZ6 departure procedure did not depend on whether the Project would be built or not. Conversely, the FAA will</p> | No change. |

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| | | | | | not replace the TERPZ6 procedure based on any aspect of the Project. Changes in airspace design are not reasonable alternatives to the Proposed Project and do not need to be evaluated as part of this EA. | |
| 31 | Howard County Office of Law | 6/4/2020 | | MAA also continues to fail to address the fact that significant impacts of noise are not limited to 1.5dB increase over 65 DNL. Under NEPA, 1.5dB may be a useful metric at the louder end of the noise range, but it does not control all possibilities. A large increase in noise can still be “significant” even if it is under 65db. For example, at a low level of 10dB, measured as DNL, an increase to 50dB DNL would be significant, which is why MAA must gather more data on the increase in noise volume outside the 65 DNL. Moreover, Maryland law and the other Federal Statutes do not use a significance standard or the 65 DNL. | See response to Comment #3. The Updated Draft EA considers the environmental impacts, including noise impacts, of the Project as required by NEPA, Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F, <i>Environmental Impacts: Policies and Procedures</i> ; and FAA Order 5050.4B, <i>National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions</i> . FAA identifies the applicable significance threshold for noise in Order 1050.1F: A significant impact occurs when “The action would increase noise by DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe.” MDOT MAA analyzed the potential for noise impacts correctly based on the land uses surrounding BWI Marshall. Consideration of noise levels lower than 65 DNL over residential areas is not the purview of this review. Both Anne Arundel and Howard County exempt aircraft and airports from the State Noise regulations. Anne Arundel County indicates that noise from these sources will be addressed by the FAA and MDOT MAA (https://www.aacounty.org/services-and-programs/noise-control). Howard County indicates that these sources will be addressed by the state aviation administration (MDOT MAA) (https://www.nonoise.org/lawlib/cities/md/howardco_md.htm). | No change. |
| 32 | Howard County Office of Law | 6/4/2020 | | Even without the existing conditions, the proposed action by itself will cause a 10.5% increase in the 65 DNL and a 27.6% increase over what was planned for in the Part 150 Study. EA at K-3-7. A more than a 25% increase in the size of the DNL noise contour over what was expected is a significant impact and must be reviewed in an EIS. | See response to Comment #3 and Comment #31. FAA Order 1050.1F identifies a significant impact when “The action would increase noise by DNL 1.5 dB or more for a <u>noise sensitive area</u> that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe.” An increase in noise levels of DNL 1.5 dB is not significant if it occurs over compatible land uses. These comparisons were provided as additional information but as Appendix K-3 correctly describes, these changes are not due to the Proposed Action. | No change. |
| 33 | Howard County Office of Law | 6/4/2020 | | MAA Must Consult with Howard County MAA is required by State and federal law to consult with Howard County on BWI flight operations that affect the County. MAA has failed to do so here, rendering the Updated Draft EA presumptively invalid. It is remarkable that despite the County’s 2018 Comments, and despite MAA’s own lawsuit against FAA alleging violations of the Federal Statutes, MAA did not have the courtesy to contact the County at all. Consequently, MAA has clearly not involved the public “to the | Consultation with the appropriate resource agencies was undertaken for development of this EA. Howard County has no resources that were determined to be impacted using FAA significance thresholds as identified in FAA Order 1050.1F. | No change. |

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| | | | | extent practicable” as NEPA requires. 40 CFR § 1501.4(b). MAA should not add insult to injury by continuing to make decisions affecting the human environment in Howard County without carefully considering those harms in consultation with the County, as required by law. | | |
| 34 | Howard County Office of Law | 6/4/2020 | | <p>The Updated Draft EA Does Not Satisfy MAA’s Legal Obligations under Section 4(f) or the NHPA</p> <p>In addition to its failure to consult with the County, MAA did not evaluate Section 4(f) and NHPA impacts in Howard County. As detailed in Attachment A, historic and culture properties in Howard County are directly and indirectly affected by the proposed action, which relies on relocated and concentrated flight paths that were never subject to review. Section 4(f) requires “all possible planning to minimize harm.” 49 U.S.C. § 303(c). The Updated Draft EA does not comply with that mandate because FAA has abandoned the plans, for which the County and MAA have sought judicial relief.</p> | <p>MDOT MAA appropriately identified all Section 4(f) resources in the study area, see Figure 4.6-1, Section 4(f) Resources. Although impacts due to noise or vibration were not anticipated because aircraft operations would not increase as a result of the Proposed Action, 4(f) resources within the Noise Study Area were identified and provided in Appendix I, Attachment 1. The Noise Study Area, illustrated in Figure 4.1-1, is associated with the future 2027 Proposed Action DNL 65 dB contour for BWI Marshall. Appendix I, Attachment 1 identifies 17 Section 4(f) resources within the Noise Study Area including five MIHP listed historic houses within Howard County (identified as resources #5-9 in Appendix I, Attachment 1). However, noise analysis determined that there would be no change in noise exposure at any of the 4(f) resources between the 2027 No Action and 2027 Proposed Action Alternatives, therefore no consultation with Howard County was required for Section 4(f) purposes.</p> <p>The Area of Potential Effect (APE) was defined for both direct and indirect effects, see Section 4.9.1, Area of Potential Effect. The Maryland Historical Trust provided their concurrence with the APEs, see Appendix J. Howard County was not included in the APEs.</p> | No change. |
| 35 | Howard County Office of Law | 6/4/2020 | | <p>Additionally, the Section 4(f) Study Area is inappropriately limited. The Study Area should to be “the three-dimensional geographic areas with the potential to be impacted by noise from the proposed project.” Order 1050.1F at ¶ B-1.3. In responses to Comments, MAA wrote that the Study Area was developed considering the geographic area that “would potentially be impacted directly or indirectly using significance thresholds defined by FAA or in consultation with the specific resources agency.” EA Response 13. MAA did not, in fact, do this. Howard County clearly has the “potential” to be impacted directly, indirectly, and cumulatively and thus it was required to be included in the Study Area, but it was not. It is clear that significance thresholds were crossed, but even were they not, significance thresholds do not apply to Section 4(f) properties that are noise sensitive areas, such as parks and schools. In addition, there are no land use thresholds, or NHPA significance thresholds. Thus, MAA was required to consult with the specific resources agency, Howard County, but did not.</p> | <p>See response to Comment #34.</p> <p>The Proposed Action does not affect operational levels nor the way that aircraft fly into and out of BWI Marshall. The only potential change to noise exposure is relative to the Airline Maintenance Facility maintenance run-up operations which are clearly identified in the original and Updated Draft EA. The potential noise exposure changes associated with these run-up operations occur over compatible land use. Additionally, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. There are no changes to noise exposure in Howard County due to the Proposed Action and therefore no consultation was required to develop the Updated Draft EA.</p> <p>Per FAA order 1050.1F at B 1.3 “Local land use jurisdictions may have noise and land use compatibility standards that differ from the FAA’s land use compatibility guidelines with respect to DNL 65 dB in 14 CFR part 150, Appendix A, Table 1. Such local standards must be disclosed to the extent required under 40 CFR 1502.16(c) and 1506.2(d), the CEQ Regulations. However, the FAA does not use local land use compatibility standards to determine the significance of noise impacts. Pertinent land use plans and a general overview of existing and planned uses of the land should be described.” The MDOT MAA used Maryland</p> | No change. |

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| | | | | | Department of Planning mapping to represent a consistent use of land use and land covers. However, Howard County (https://data.howardcountymd.gov/) and Anne Arundel County (http://www.aacounty.org/county-maps/) land use data was accessed for the analysis. Because this data is publicly available from each County, no verification was necessary. | |
| 36 | Howard County Office of Law | 6/4/2020 | | The Updated Draft EA admits that the 65 DNL noise contour will move into Howard County, but does not explain why Howard County was not consulted and does not quantify the increase in noise in Howard County. Id. It simply makes a conclusory assertion that the increased noise levels are “compatible with commercial uses,” but that is not the point. The question is the amount of increase, which MAA apparently does not know. Moreover, since MAA did not consult with Howard on “potential” impacts, as it was required to, there is no way to tell whether the landuse mapping relied on is valid. This is exactly why the law requires consultation with local government. Furthermore, FAA rules require consultation with officials having jurisdiction over affected properties. Order 1050.1F at ¶ B-1.6. Because MAA did not consult with the County, it did not comply with Section 4(f). | See responses to Comments # 3 and 6. While the 65 DNL contour does extend minimally into Howard County under the No Action and Proposed Action Alternatives, there is no significant noise impact associated with the Proposed Action and no consultation is required as there is nothing to consult on. The fact that the noise exposure increases, on Airport Property and over manufacturing and production land use in Anne Arundel County is irrelevant as FAA ‘s Order 1050.1F does consider that significant impact for noise purposes is identified as noise over non-compatible land uses (at 4-3.3, Significance Thresholds): <i>The action would increase noise by DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe.</i> Again, readily available Howard County GIS data was used along with Maryland Department of Planning data. Regardless there would be no change to noise exposure in Howard County for the Proposed Action, as compared to the No Action. | No change. |
| 37 | Howard County Office of Law | 6/4/2020 | | The NHPA requires examination of the “effects” of proposed actions, not just “significant impacts.” 54 U.S.C. § 306108. It also requires a detailed disclosure of potential impacts and a cumulative impacts analysis. Neither were done here. The Updated Draft EA fails to apply the correct Area of Potential Effects, which includes Howard County. Consequently, the Updated Draft EA does not comply with NHPA obligations. It is clear that historic reviews including Howard County are required and that Howard County must be consulted. 54 U.S.C. § 304108(b); 36 CFR §§ 800.2(a)(4), 800.2(c)(3), 800.4(a), and 800.5. | The Maryland Historical Trust concurred with the APEs and that no archaeological or architectural resources would be adversely impacted by the Proposed Action. No consultation with Howard County is required. | No change. |
| 38 | Howard County Office of Law | 6/4/2020 | | The Updated Draft EA Violates Maryland Law As discussed in the County’s 2018 Comments, MAA is currently in violation of Maryland law and relying on the Updated Draft EA compounds and multiplies those violations. MAA has not updated the Airport Noise Zone as required by law. MD CODE ANN., TRANSP. § 5-801, et seq; see also, EA Appendix N at page 9. Additionally, the inadequacy of the EA violates the Maryland Environmental Policy Act. MD CODE ANN., NAT RES. § 1-301, et seq. MAA must comply with its legal responsibilities by initiating an EIS in cooperation with Howard County. | The status of the ANZ is a separate matter and has no bearing on the Proposed Action considered in the EA. The FAA is not subject to the Airport Noise Zone (ANZ) provisions, which apply only to the Airport. MDOT MAA initiated an update to the Airport Noise Zone in 2019 and anticipates completion of technical work in 2020. | No change. |
| 39 | Howard County Office of Law | 6/4/2020 | | Additional Questions and Clarifications MAA appears to admit in Response 23 that dispersion was not accurately modeled. Please explain the extent to which the modeling reflects the actual concentration of aircraft relative to a particular back bone track, and the extent of deviation. | The commenter is incorrect. Dispersion was applied correctly in the original and Updated Draft EA and Section 4(f) Determination. The conclusion of Appendix K-4 was that while three weeks of the radar data used to define modeled tracks did not include additional revisions to the procedures that were implemented by June of 2015, the post implementation revisions did not affect the flight tracks | No change. |

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| | | | | | used in the noise analysis and would not affect the noise contours shown on the noise exposure maps. This is because most of the procedure revisions occurred numerous miles beyond the 65 DNL contour and therefore it is highly unlikely they would introduce any noticeable change to the Proposed Action noise contours. | |
| 40 | Howard County Office of Law | 6/4/2020 | | The meaning of the Response on page 8 of Appendix N is unclear when it states “nor is the Plan affected by the Proposed Actions evaluated in this EA.” Please clarify. | The statement is referring to the BWI Noise Abatement Plan (Plan). It indicates that the Noise Abatement Plan is not affected by the Proposed Action evaluated in the EA. | No change. |
| 41 | Howard County Office of Law | 6/4/2020 | | Please explain the status of the noise monitoring system, including when the new system become operational and whether any data was used to validate noise models, including an explanation of why it is not possible to use noise monitors to predict future noise contours as is stated in Response 26. | <p>The status of the noise monitoring system is not relevant to the Proposed Action because the Proposed Action will not cause any new noise impacts beyond the airport property line. However, in the interest of disclosure, MDOT MAA notes that, beginning in the 1980’s, the State procured a robust noise and operations monitoring system consisting of software to analyze radar data, 23 permanent noise monitors, and portable noise monitors. That system, however, had served well beyond its design life and many permanent noise monitors were no longer operational or able to be repaired.</p> <p>In 2017, MDOT MAA initiated a project for the implementation, construction and deployment of a new BWI Marshall Noise and Operations Monitoring System (NOMS), consisting of 24 permanent noise monitors, three portable noise monitors, and advanced analysis software that integrates noise and aircraft operations. The NOMS exists to manage, analyze and correlate aircraft noise, aircraft flight tracks and aircraft noise complaint data. New permanent noise monitoring data was published in BWI Marshall’s Quarterly Noise Reports beginning in the fourth quarter of 2018 and the system was fully operational by the fourth quarter of 2019.</p> <p>Permanent noise monitors provide important information to the public about community and aircraft noise levels. However, they provide information only about noise levels at that specific location. For BWI Marshall, it may require tens of thousands of noise monitors to match the level of fidelity and accuracy of the noise model. Noise measurements via permanent or portable noise monitors are historical and only document what has occurred at a finite number of locations. Further, noise monitors cannot model any future ‘what-if’ scenarios such as the proposed action in this EA. Therefore, noise monitors cannot predict future noise contours. As such, the FAA requires the use of computer-generated DNL estimates depicted as noise contours.</p> <p>MDOT MAA offers portable noise monitoring for a two-week period upon request to eligible homeowners. Reports are made available to the homeowner and are published at https://maacommunityrelations.com/content/anznoiseupdate/noisemonitoring.php</p> | No change. |

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| 42 | Howard County Office of Law | 6/4/2020 | | Please identify all of the studies mentioned at Response 26. | The studies referenced in Appendix N, Response 26 were completed to evaluate the impact of the DC Metroplex project and are not germane to this EA as the Proposed Action does not change aircraft operations or flight paths into or out of BWI Marshall. | No change. |
| 43 | Howard County Office of Law | 6/4/2020 | | Please explain the status of the expected 2019 ANZ update mentioned at Response 28, and why it has been delayed, including whether the delay is in any way related to this or other environmental compliance related to noise. | See response to Comments #15 and 38. As stated in Comment #38, MDOT MAA anticipates completion of the technical work in 2020. The schedule for conducting and completing the BWI Marshall ANZ Update is entirely independent of the EA. | No change. |
| 44 | Howard County Office of Law | 6/4/2020 | | Please update Response 30 to reflect the changed circumstance of the 65 DNL noise contour entering Howard County. | The following information has been added to Response 30 in Appendix N, Attachment 1: 2020 Update: The Updated Draft EA includes revisions to the noise analysis including updating existing conditions to 2018. The 2018 existing conditions 65 DNL contours extends minimally into Howard County. However, the noise analysis demonstrates that there is no increase in noise within Howard County when comparing the Proposed Action and No Action Alternative contours. | Complete. |
| 45 | Howard County Office of Law | 6/4/2020 | | Please clarify what noise contours and flight tracks were used to perform climate, air quality and land use analysis, including the relevant time periods. | Climate, air quality and land use analysis used the same years of analysis as those used for the noise compatibility analysis, 2022 and 2027 with the addition of the years 2020, 2021 and 2022 to evaluate construction emissions for both national ambient air quality standards and carbon dioxide equivalents. These analyses are based on emission inventories for operations but do not take into account flight tracks since dispersion analysis was not required as the difference between the Proposed Action and No Action did not exceed <i>de minimis</i> thresholds under the EPA's General Conformity Rule (40 CFR part 93), see Section 5.1.4.2, Sponsor's Preferred Alternative. | No change. |
| 46 | Howard County Office of Law | 6/4/2020 | | Please explain the statement in Response 31 that the Part 150 Noise Compatibility Plan (Program) "has no bearing" on the study of noise impacts required by NEPA and Section 4(f), particularly in regard to forecasting conditions and considering future cumulative impacts. | See responses to Comments # 3, 12 and 25. As was stated in response to Comment #31 to your comment on the January 2018 Draft EA, the analysis of noise must be based on existing procedures. The radar data used to develop this EA's flight tracks for modeling future conditions must be based on existing conditions as the Proposed Action does not include changes to flight paths into or out of BWI Marshall. | No change. |
| 47 | Howard County Office of Law | 6/4/2020 | | Please explain how the conclusion was reached that the proposed actions will not induce operations. Response 38. | See response to Comment #8 and #48. The Proposed Action does not increase capacity of the airfield but does serve to meet FAA standards and enhance airfield safety and efficiency. | No change. |
| 48 | Howard County Office of Law | 6/4/2020 | | Please explain why, if the proposed actions will not materially affect BWI ability to accommodate demand (Response 38), the actions are proposed and why accommodating increased demand is used as part of the need for the project. | All airports must plan to accommodate demand and they can plan to do so with a high level of service or a lower level of service. MDOT MAA would like to accommodate the region's demand with a higher level of service (e.g., increased efficiency, increased on-time performance) than is currently available at BWI Marshall. For example, providing more remain overnight parking positions will enable BWI Marshall to have improved gate management flexibility to better serve passengers, airlines and ground crews. If gates are not extensively | No change. |

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| | | | | | occupied by aircraft parking overnight, it will allow a morning flight to remain on schedule when another aircraft may need the gate for arrival purposes. Another example is the proposed Airline Maintenance Facility. Currently minor maintenance occurs at the gate or on the apron, which is disruptive to operations as well as inconvenient for those who maintain the aircraft. While these types of operations could continue to be accommodated at BWI Marshall, the convenience of a separate Airline Maintenance Facility would improve the level of service that MDOT MAA provides to the airlines and ultimately to the passengers. Additionally, currently there is insufficient space at the gates and within the terminal apron to efficiently perform needed maintenance activities. Employee health, safety and welfare, as well as quality control, are not as effective as they would be if performed in a consolidated well-lit hangar facility. Beyond the need to make maintenance operations more efficient and safer for workers, the apron space currently used for maintenance operations is needed to accommodate irregular operations, and to allow for flexible gate assignments and additional remain overnight parking. The proposed facility is also needed to increase reliability of aircraft fleet maintenance, thereby allowing airlines to maintain flight schedules and minimize delay impacts on passengers. | |
| 49 | Howard County Office of Law | 6/4/2020 | | Please explain whether the assumptions regarding fleet mix, the fleet replacement plan, and growth forecast remain valid given the COVID19 pandemic. See Response 5, Appendix N at 21. | As was discussed in the virtual public workshop, the MDOT MAA recognizes that the unprecedented impacts of the COVID 19 pandemic will affect near-term activity levels at BWI Marshall. The majority of improvements are not connected to activity level but are needed to meet FAA standards and enhance airfield safety and efficiency. It should be noted that even without the improvements that are included to address future demand, the Airport would continue to accommodate the projected demand although it would be at lower level of service to the public. It is therefore prudent for MDOT MAA to continue with the environmental review of the improvements considered in the Updated Draft EA and Draft Section 4(f) Determination. In addition, if there is no demand to build certain facilities when funding is available, they would not be built. For the time being, since no one knows the nature of the recovery, MDOT MAA is maintaining the existing aviation forecast. | No change. |
| 50 | Howard County Office of Law | 6/4/2020 | | It is unclear for which operations there are few radar tracks and whether straight-in straightout tracks are appropriate given departure changes. EA at ¶ K-2.4.8. It is also not clear whether the use of existing navigation fixes and departure procedures accurately reflects flight paths as actually flown. Id. Please clarify. | <p>Straight-in and straight-out tracks were modeled for the following groups of aircraft and runways:</p> <ul style="list-style-type: none"> • Commercial propeller, General Aviation (GA) jet, and GA propeller arrivals to Runway 28; • GA propeller arrivals to Runway 15R; and • Commercial propeller, GA jet, and GA propeller departures from Runway 10. <p>The only straight-in and straight-out flight tracks that are over Howard County are GA propeller arrivals to Runway 15R. From a noise footprint perspective, GA propeller aircraft are much quieter than commercial jets. In addition, GA</p> | No change. |

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| | | | | | propeller operations at BWI Marshall are much lower than commercial jet operations. For a commercial hub airport such as BWI Marshall, noise from commercial jets are the predominant driver for noise impacts and noise from GA propellers are often overwhelmed by commercial jets. These straight-in and straight-out flight tracks for the above-mentioned aircraft groups were included in the noise analysis which showed no significant impacts over Howard County. | |
| 51 | Howard County Office of Law | 6/4/2020 | | Please clarify the extent to which flight track geometry and noise analysis rely on pre-February 2016 data. | Flight track geometry was developed based on 2018 and 2019 radar data in the revised EA (please see Appendix K-2, section K-2.4.8). Fleet mix, operations, and runway utilization were based on radar data from May 2018 through April 2019 (please see Appendix C, section C.2). The run-up operations were based on BWI Marshall run-up logs in 2018. None of the inputs mentioned above to the noise model were based on pre-February 2016 data. | No change. |
| 52 | Howard County Office of Law | 6/4/2020 | | Please clarify the statement at 5-35, § 5.11, that the Preferred Alternative does not influence run-up operations. | Both the 2015 ALP and Sponsor's Preferred Alternative include the Proposed Airline Maintenance Facility in the same location with the difference being a more refined layout of the facility for the Sponsor's Preferred Alternative. As is clearly described in the Updated Draft EA, more run-up operations are included for both alternatives when compared to the No Action Alternative. The estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. | No change. |
| 53 | Howard County Office of Law | 6/4/2020 | | Please explain whether MAA has considered any Part 161 operational changes to mitigate noise impacts. | The consideration of Part 161 is not material to this EA, as there are no significant noise impacts associated with the Proposed Action. | No change. |
| 54 | Howard County Office of Law | 6/4/2020 | | <p>CONCLUSION</p> <p>The Updated Draft EA attempts to partially remedy what it acknowledges were failings of the original draft, but the data remains insufficient, relevant information is ignored, specific legal requirements are not addressed, and Howard County was not consulted. For these reasons, the reasons stated in the County's 2018 Comments, and the reasons stated in the federal lawsuits filed by MAA and the County against FAA, the Updated Draft EA does not comply with State or federal law.</p> <p>The County urges MAA to work with it to address the serious problems caused by FAA's unlawful actions at BWI. MAA's adversarial approach and refusal to acknowledge the problem will only perpetuate those harms.</p> <p>Pursuant to 40 CFR 1501.4(e) and 1506.6(b), please mail notice of FAA's finding in this matter to the Howard County Office of Law. Additionally, please take every effort to ensure that any future efforts to consult with Howard County on this matter or any other matter involving environmental assessments at BWI is copied to the Howard County Office Law, the Howard County Executive, and the Howard County Council.</p> <p>Thank you for your consideration of these Comments.</p> | <p>The Updated Draft EA does not acknowledge that the original draft had failings, see the introduction to Chapter 1, Background and Proposed Action, for the reasons that the original Draft EA was updated. The EA was developed in accordance with the Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; FAA Order 1050.1F; and FAA Order 5050.4B. The technical analysis conducted to develop the Updated Draft EA provides sufficient information to support the findings included. The analysis within the EA determined that there were no significant impacts to Howard County because there would be no difference between the Proposed Action and No Action alternatives on any resource reviewed in the EA within Howard County and thus no consultation is required.</p> <p>The FAA's implementation of DC Metroplex program procedures is not material to this EA nor its findings. Once the FAA renders its determination on this EA, MDOT MAA will post all relevant documentation to the MAA's website at http://www.marylandaviation.com/content/environmental/environmentaldocss.html. A Notice of Availability will also be included in the eNews Express, which is received by Howard County.</p> | No change. |

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| 55 | Maryland Department of Planning | 3/25/2020 | General | <p>In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.01.04-.06, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation. This recommendation is valid for a period of three years from the date of this letter.</p> <p>Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning, including the Maryland Historical Trust. Anne Arundel County did not have comments.</p> <p>The Maryland Department of Natural Resources; and the Maryland Department of Planning, including the Maryland Historical Trust found this project to be consistent with their plans, programs, and objectives.</p> | Comment noted. | No change. |
| 56 | Maryland Department of Planning | 3/25/2020 | General | Our Department (Planning) noted that "BWI Thurgood Marshall Airport's improvements and needed renovations are listed in Anne Arundel's General Development Plan 2009 Transportation Section." | Comment noted. | No change. |
| 57 | Maryland Department of Planning | 3/25/2020 | General | The Maryland Historical Trust has determined that the project will have "no effect" on historic properties and that the federal and/or State historic preservation requirements have been met. | Comment noted. | No change. |
| 58 | Maryland Department of Planning | 3/25/2020 | General | <p>The Maryland Department of Environment (MDE) found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments summarized below.</p> <ol style="list-style-type: none"> 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 Management 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 Waste Diversion and Utilization Program should be contacted directly at (410) 537-3314 by those facilities which generate or propose to generate or | Comment noted, MDOT MAA will comply with all applicable state and local laws and regulations for design and construction of proposed improvements. | No change. |

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| | | | | <p>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.</p> <p>5. Any contract specifying "lead paint abatement" must comply with Code of Maryland Regulations (COMAR) 26.16.01 - Accreditation and Training for Lead Paint Abatement Services. If a property was built before 1950 and will be used as rental housing, then compliance with COMAR 26.16.02 - Reduction of Lead Risk in Housing; and Environment Article Title 6, Subtitle 8, is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.</p> <p>6. 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.</p> <p>7. 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 requires site approval. Contact the Mining Program at (410) 537-3557 for further details.</p> <p>Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse. The State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation.</p> <p>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 myra.barnes@maryland.gov. Also, please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.</p> <p>Thank you for your cooperation with the MIRC process.</p> | | |

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| 59 | Maryland Department of Planning | 6/1/2020 | General | <p>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. This recommendation is valid for a period of three years from the date of this letter.</p> <p>Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning, including the Maryland Historical Trust. The Maryland Department of Natural Resources; the Maryland Historical Trust; and Anne Arundel County did not have comments.</p> | Comment noted. | No change. |
| 60 | Maryland Department of Planning | 6/1/2020 | General | <p>The Maryland Department of Planning found this project to be consistent with their plans, programs, and objectives.</p> <p>Our Department (Planning) noted that the Baltimore Washington Thurgood (BWI) Marshall Airport is asking for comments on the updated Draft Environmental Assessment (EA) and Draft Section 4F determination. The analysis provides updates to a noise analysis, changes made to address public feedback received on the 1/2018 EA, additional coordination conducted with Anne Arundel County related to impacts to the BWI trail determined as a result of refined preliminary design, the update aviation activity forecasts, the update to existing conditions and the use of the Midfield Cargo Facility project and to address cumulative impacts related to additional projects that have been environmentally approved by the Federal Aviation Administration (FAA) since the Draft EA publication. The airport's proposed actions are contained in the Airport Layout Plan (ALP) and are meant to meet FAA design standards, enhance the airfield safety and efficiency, accommodate existing and anticipated passenger demand and improve customer service. BWI Marshall is located within a Priority Funding Area. The ALP has been approved by the County.</p> | Comment noted. | No change. |
| 61 | Maryland Department of Natural Resources | 3/18/2020 | Chesapeake Bay Critical Area | No further coordination is needed with this office since BWI is not located in the Critical Area portion of Maryland's Coastal Zone. | Comment noted. | No change. |
| 62 | Maryland Department of Natural Resources | 5/7/2020 | Coastal Zone Consistency | <p>I am responding to your request for CZM consistency concurrence for the following project: Proposed ALP Phase I Improvements at BWI Marshall Airport</p> <p>Thank you for putting together such a thorough and complete review package.</p> <p>Based on our review of the information provided, the above project is consistent with the enforceable coastal policies of the Maryland Coastal Zone Management Program. Please note that this determination does not obviate the applicant's responsibility to obtain any other State or local approvals that may be necessary for the project.</p> | Comment noted, MDOT MAA will comply with the enforceable coastal policies of the Maryland Coastal Zone Management Program. | No change. |

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| 63 | Maryland Department of Planning | 6/1/2020 | General | <p>The Maryland Department(s) of Environment found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments summarized below.</p> <ol style="list-style-type: none"> 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. Any contract specifying “lead paint abatement” must comply with Code of Maryland Regulations (COMAR) 26.16.01 - Accreditation and Training for Lead Paint Abatement Services. If a property was built before 1978 and will be used as rental housing, then compliance with COMAR 26.16.02 - Reduction of Lead Risk in Housing; and Environment Article Title 6, Subtitle 8, is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825. 6. 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 | Comment noted, MDOT MAA will comply with all applicable state and local laws and regulations for design and construction of proposed improvements. | No change. |

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| | | | | <p>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 Land Restoration Program at (410) 537-3437.</p> <p>7. 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.</p> | | |
| 64 | Anne Arundel County Office of the County Executive | 5/28/2020 | Tree Removal | <p>First, I want to sincerely thank you for the detailed virtual public meeting and website you put together for this project. I've perused it over the last couple of days, and learned a tremendous amount about the project.</p> <p>I noted that BWI and MAA are working with MD DNR and MDE to provide mitigation for the onsite and offsite removal of trees, as well as for wetland disturbance, but I couldn't locate detailed information about these efforts. Are there any maps and summary data you could provide showing the location and amount of mitigation that will occur for this project?</p> | <p><i>Section 5.2, Biological Resources</i> of the Draft document provides detailed forest clearing and mitigation requirements. <i>Section 5.14, Water Resources</i> provides impacts or encroachments, if they exist, to wetlands, streams, and the 100-year floodplain by individual project. Discussion of water resource mitigation is also included in <i>Section 5.14</i>. Specific to wetlands, MDOT MAA is proposing to meet most to all wetland and stream mitigation off-site, through the use of wetland mitigation banking credits in the Gunpowder-Patapsco watershed (USGS 0206003). There are also options for MDOT MAA to develop mitigation sites on parcels that are currently owned by MDOT MAA. <i>Section 5.2.5, Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> | Complete. |
| 65 | Anne Arundel County Office of the County Executive | 5/28/2020 | Tree Removal | <p>Additionally, would there be any opportunities to work collaboratively with property owners and Anne Arundel County to replace trees that must be removed on private property with understory trees or shrubs?</p> | <p>See response to Comment #2.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. MDOT MAA expects to negotiate individual easements, at appraised fair market value, with each impacted landowner. Fair market value appraisals are prepared by two independent appraisers, which are then reviewed, and a final determination made, by the State. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners and Anne Arundel County to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. In some cases, property owners have requested that MDOT MAA clear more trees on their property than those identified as obstructions. The process to develop easements and ultimately the coordination for tree removal or alteration will require time. Still, MDOT MAA looks forward to working with individual property owners and Anne Arundel County to ensure the safety of both the community and those traveling into and out of BWI Marshall.</p> | Complete. |
| 66 | Suzanne Etgen | 6/4/2020 | Tree Removal | <p>Thank you for the opportunity to provide comments related to the Maryland Aviation Administration's proposed Airport Layout Plan which would include the removal of 83 acres of forest on BWI property and additional tree removal on private property.</p> | <p>See responses to Comments #1 and 2.</p> <p>The MDOT MAA is proposing to meet forest mitigation requirements for all proposed projects through placement of Maryland Department of Natural Resources (MDNR) Forest Conservation Easements on MDOT MAA-owned forests</p> | Complete. |

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| | Executive Director, Watershed Stewards Academy | | | <p>I write on behalf of the Watershed Stewards Academy, a non-profit organization, that works throughout Anne Arundel County to empower communities to pursue environmental restoration. Over the last decade, we have trained over 250 environmental leaders representing over 100 communities and 25 religious congregations from Brooklyn Park to Herring Bay. These leaders have completed over 2,500 projects from rain barrels to stream restoration, and engaged almost 150,000 residents of our County. This year, we launched a new program, Replant Anne Arundel, aimed at planting trees across the county to combat significant tree canopy loss.</p> <p>As we work to restore our local waterways, our organization is concerned about the tremendous affect that additional tree removal at BWI airport will have on local streams, and the environment (air quality, sound) of surrounding communities. Newly planted trees, while important, do not replace whole forests and stormwater controls in newly developed areas are often only designed to treat minimum runoff volumes. In recent years, we have seen an increase in the number and intensity of large volume storms and that trend is predicted to continue in the future. For this reason, we urge you to avoid removal of as many trees as possible and consider strong Stormwater management controls for cleared areas.</p> <p>We do believe that removal of 83 acres on the BWI airport constitutes a significant environmental impact.</p> <p>As you move forward with this project, we ask that you re-consider the plan to minimize the clearing of as many trees as possible and create a robust mitigation plan that exceeds requirements for replanting and preservation. We also ask that stormwater management controls planned for the cleared property exceed the minimum state requirements to treat water quality volumes.</p> <p>Thank you for your efforts to consider the effect of this plan on local communities and waterways.</p> | <p>within and surrounding the Stony Run Wetlands of Special State Concern (WSSC) area. The Stony Run WSSC area is located just west of Aviation Boulevard in proximity to the proposed Airline Maintenance Facility and within the watershed of the remaining proposed projects. Preparation of the Forest Conservation Easements are well underway, having already been reviewed by MDNR and the FAA. Protecting this area of WSSC in perpetuity will serve the citizens of Maryland by protecting an extensively treed area with valuable natural resources within an urban setting. Additionally, MDOT MAA will adhere to Maryland Department of Environment's (MDE) <i>Stormwater Management Guidelines for State and Federal Projects</i> to control stormwater runoff for these and other projects included as part of improvements to BWI Marshall.</p> <p>Individual projects will include stormwater management design and development Erosion and Sediment Control Plans to reduce and minimize impacts to surface waters in accordance with Maryland Department of the Environment guidelines. In areas where trees must be removed for Part 77 purposes (and where other new projects do not require tree removal), tree stumps will remain in order to reduce sediment and erosion.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> | |
| 67 | Erik Fisher Maryland Land Use Planner and Assistant Director Chesapeake Bay Foundation | 6/4/2020 | | <p>The Chesapeake Bay Foundation has become aware of significant tree cutting proposed as part of the ALP Phase I Improvements at BWI Marshall Airport. According to the May 21, 2020 presentation from the Maryland Aviation Administration (MAA), the project would include removal of 83 acres of forest, along with more than 1,000 trees cut offsite in the surrounding community. MAA posits that these actions will result in "no significant impact" within the context of the Environmental Assessment.</p> <p>This approach will result in a large net loss of trees in a concentrated and populated area that could cause significant localized impacts to air quality, water quality, community health and property values. Numerous studies have highlighted the important services trees provide to moderate temperature extremes, provide recreation, beautify communities, control flooding and erosion, and filter pollutants. In the past 45 years, the loss of forests in the</p> | <p>See responses to Comments #1 and 2.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed</p> | Complete. |

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| | | | | <p>Baltimore-Washington region has resulted in a 19 percent increase in polluted runoff at a cost of over one billion dollars.</p> <p>MAA proposes to mitigate tree loss by placing a conservation easement on other forest land. The agency could do much more to acknowledge and address the very real negative impacts likely to befall the airport's neighbors to the north of the site. Conservation easements work best during new "greenfield" development because these easements can be situated in such a way that they provide ongoing benefits to future residents. They are generally not a helpful mitigation strategy where hundreds of trees would be removed from public and private property within an established community, as is the case for this project.</p> <p>CBF urges the agency to further investigate tree management practices that could reduce potential threats to aircraft without complete removal. In addition, MAA should commit to replant as many trees as possible within the community, using species with growth habits that are compatible with aircraft safety. <u>MAA should only mitigate tree clearing using offsite conservation after first exhausting all alternative practices and replanting opportunities on-site and within the community.</u></p> | <p>during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| PUBLIC COMMENTS | | | | | | |
| 68 | Dan Skacan | 4/21/2020 | Tree Removal | <p>I was just looking through previous correspondence and was hoping you could give me update concerning "vegetation obstruction" on my property – <i>[address removed to protect privacy]</i></p> <p>I was out of town during the scheduled workshops .</p> <p>Is there work expected to be done on my property?</p> <p>Is there a time schedule?</p> <p>Any other information you could share?</p> | <p><i>Response provided via email to Mr. Skacan:</i></p> <p>The public workshop scheduled for March 11 was postponed due to the COVID 19 virus but we will be holding a virtual public meeting on May 21, 2020. A notice for the meeting will appear in local papers and on our website (http://www.marylandaviation.com/content/environmental/environmentaldocs.html) on 4/23/2020. Please check it for details on the meeting logistics.</p> <p>Specific to your property, when we reviewed the trees on your property we found that there were a few trees that could be potentially saved. We will be posting the boards that would have been available at the public meeting on the MDOT MAA website beginning May 21. One of these boards includes a depiction of the tree obstructions in the vicinity of your property. Please note that there will still be more reviews of any tree marked for removal prior to any action being taken.</p> <p>As for the timing of obstruction removal, there are many more steps to be taken before any tree is removed. The Draft EA must be finalized, which we expect to complete this fall. After the environmental document is approved by the Federal Aviation Administration, MDOT MAA will need to work through the necessary right to enter your property so as to confirm the obstruction, timing and means for removal of any trees. We would expect that any removal is still more than a year away.</p> | No change. |
| 69 | Paul Verchinski | 5/21/2020 | Tree Removal | <p>I submitted the following and received no response. I wonder how many others submitted and received no response.</p> | <p>See responses to Comments #1 and 2 in addition to the following:</p> <p>Related to submitting these questions during the Virtual Public Workshop, and as documented in your email comment, the first comment was received by All</p> | Complete. |

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| | | | | <p>"</p> <p>from Paul Verchinski to all panelists:</p> <p>83 Acres of Forest Clearing and 2300 Trees are to be removed. MD has requirements for Forest Conservation replanting where some is required on the original property. The MD Forest Protection Act was revised in 2019. How does the tree removal comply with MD Forest Conservation and Replanting requirements?</p> <p><i>(next comment and response from Mr. Verchinski's email follows.)</i></p> | <p>Panelists and a verbal response was provided during the public workshop. The second comment was submitted privately to one panelist and therefore did not receive a verbal response during the workshop. Although the Project Team made every effort to address all chats received during the workshops, it was noted on the MDOT MAA website and during the workshops that if comments or questions could not be answered during the meeting verbally, that they would be responded to in the Final EA. The Project Team communicated promptly after the workshop with an email to the commenter in response to his request for review of hard copies.</p> <p>MDOT MAA has undertaken substantial coordination with all necessary agencies, including MDE and MDNR to determine mitigation requirements due to the proposed obstruction removal. Note that there are two types of tree removal being proposed and they are treated differently under the law in terms of mitigation; one is removal of obstructions within federally regulated Part 77 surfaces and does not require mitigation. The second type is removal of trees to accommodate new proposed projects on BWI Marshall property, such as the new Airline Maintenance Facility; this tree removal <u>does</u> require mitigation.</p> <p>Related to updates to the Maryland Forest Protection Act in 2019, there is no act with this name. If referring to the local acts (including the Howard County Conservation Act updated in 2019 or forest conservation requirements introduced in Anne Arundel County in 2019), MDOT MAA is not required to meet these local mitigation requirements as BWI Marshall is owned by the State. Additionally, there is no tree removal proposed in Howard County.</p> <p><i>Section 5.2.5, Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification</p> | |
| 70 | Paul Verchinski | 5/21/2020 | Review of Draft | <p>from Paul Verchinski to Robin Bowie (privately):</p> <p>I reviewed the hard copy to some extent at the Howard County Library. It had about 400 pages and 2 CDs to review. I was not able to go back and complete my review due to Covid19. I have attempted to continue my review on line but have found this to be impossible. I therefore lodge this protest that does not allow the public to be able to constructively review this draft EA. It is only available on line and I have a visual disability. I did request by Email to Kim Hughes "hard copies of the meeting materials as well as the documents currently posted on the website.", but did not receive this.</p> <p>from Paul Verchinski to Robin Bowie (privately):</p> <p>I have submitted 2 questions and both have not been addressed"</p> | <p>All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MDOT MAA Environmental website from February 6 to June 4, 2020 at http://www.marylandaviation.com/content/environmental/environmentaldocs.html. Hard copies of the document were available at library locations, MDOT MAA offices and FAA offices from February 6th until mid-March, when libraries closed due to COVID-19. Due to the pandemic and the need to postpone the public workshop (scheduled for March 11th, 2020), the comment period was extended to June 4th, 2020. The document remained on the MDOT MAA's website beyond June 4th, 2020 when the comment period closed. Notice of the virtual public workshop was published April 23rd, 2020, 30 days prior to holding the virtual public workshops to provide ample notice of the events. The virtual public workshop materials were on the MDOT MAA website from May 15th through June 4th, 2020. The MDOT MAA offices remained open and the document was available in hardcopy for review, as explained via email in response to the</p> | No change. |

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| | | | | | commenter on May 24 th , 2020. The original email request for all materials in hard copies was not received by MDOT MAA. A telephone number was also provided to request assistance via the Notice of Availability. MDOT MAA communicated with the commenter to provide opportunities to come into MDOT MAA offices to review the hardcopy document. . | |
| 71 | Robin Smith | 5/22/2020 | Tree Removal | <p>As a 28-year resident of Linthicum, I am appalled that a proposal to remove more than 1200 mature trees from private property in our small community is being considered. I am strongly against this initiative.</p> <p>If this is an FAA mandate for clear obstructed sight lines, can't these trees be topped off instead of removed? The airport expansion over the years has detrimentally affected our community in a number of ways. This proposal is yet another attack on our small town.</p> <p>Please find a way to proceed without this drastic action. Being a good neighbor to the airport has its limits; the airport must be a good neighbor in return. Please do not continue to negatively impact Linthicum with the removal of these trees.</p> | <p>See responses to Comments #1 and 2 in addition to the following:</p> <p>MDOT MAA always seeks to be a good steward of Maryland's natural resources but must also promote safety for the traveling public and the communities surrounding BWI Marshall. Providing a forest conservation easement to mitigate non-Part 77 related tree removal and working with residents during selective tree removal/alteration of obstructions strikes the balance.</p> <p>MDOT MAA is cautious about topping trees as it sometimes makes the tree grow faster off the main trunk of the tree or in some cases kills the tree. MDOT MAA will work with residents and a qualified forester to determine the best solution (such as trimming, removal or topping) while eliminating obstructions after a finding is determined on this EA.</p> | Complete. |
| 72 | Dan Cryan | 5/24/2020 | Tree Removal | <p>As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.</p> <p>Although the MAA considers the removal of trees to be of no significant impact, the truth is, there will be an impact, to the environment and to the surrounding neighborhoods. We recently moved to Linthicum because of the beautiful neighborhoods and the low noise levels despite being this close to the airport. Neighbors and the LSIA indicated that the surrounding area and the MAA had a good relationship and worked out issues together. I find it appalling that you can propose the removal of 83 acres of forest and 1,102 individual trees from off the airport and 1,228 trees removed on airport grounds without adequately addressing the impact and replacing the trees with other trees or at least a sound barrier. This would also have an impact on wetlands and runoff into our streams. I realize you've studied this and consider it of "no significant impact", but as bad as our environment is (air, ground, and water), any additional impact without implementing a fix is unacceptable.</p> | <p>See responses to Comments #1 and 2 in addition to the following:</p> <p>Trees are valuable to our community for their multiple benefits, including to air quality and water resources as the commenter noted. The action to remove a tree is not taken lightly. However, the safety of the flying public as well as the safety of the communities around the Airport must be our highest priority. For improvements not directly related to safety, MDOT MAA is committed to mitigating tree removal through forest conservation. Through conservation, trees will continue to thrive within Anne Arundel County on MDOT MAA owned property for many years to come.</p> <p>In response to sound barriers, separate from the EA, MDOT MAA has researched mitigation in the form of noise barriers and found that this type of noise deflection was met with community concerns and would provide only limited benefit. MDOT MAA continues to research and evaluate ways to meaningfully reduce noise to surrounding communities. Independent of this EA, MDOT MAA has taken an active role, and continues to do so, to address noise in the community. MDOT MAA programs include working to recommence the residential sound insulation program for areas within the DNL 65 dB contour (this is the DNL threshold for eligibility put in place by the FAA) and working as a technical advisor to the BWI Roundtable. MDOT MAA also offers permanent and portable noise monitoring, performs regular flight track monitoring, and undertakes comprehensive noise complaint tracking and response. Additionally, separate public outreach has been established by MDOT MAA in response to the DC Metroplex and information is available on MDOT MAA's community relations website (http://www.maacommunityrelations.com/).</p> | Complete. |

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| 73 | Dan Cryan | 5/24/2020 | Tree Removal | To simply say that trees removed as part of the FAA flight path safety do not have to be replaced is ludicrous. Those trees have been there for decades and can be either trimmed or replaced and still offer flight path safety. In short, we lose our old trees and get little to nothing in return to maintain the health of the environment and surrounding areas. MAA indicated they will comply with the reforestation requirements through plantings and credits. However, the use of "credits" translates to the planting of "replacement" trees virtually anywhere in Maryland – does not replace the trees lost within and around our community. | See responses to Comments #1 and 2 in addition to the following: MDOT MAA intends on developing a forest conservation easement for over 100 acres that will also serve to protect the Stony Run Wetlands of Special State Concern in perpetuity. This area of conservation is located within the same watershed and in proximity to the proposed Airline Maintenance Facility. <i>Section 5.2.5, Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification. | Complete. |
| 74 | Dan Cryan | 5/24/2020 | Noise | One study by the International Airport Review had the following to say about the noise pollution: "The level of noise that comes from airports has an effect on people's health through interference with communication, sleep disturbance, annoyance responses, learning acquisition, performance effects and cardiovascular and psychophysiological effects, and an increased risk of cardiovascular disease. The noise surrounding an airport causes a decline in the land values surrounding the area. Regulations like the use of sound barriers and other soundproofing techniques such as noise monitoring systems, operating restrictions and limits, air traffic management, and home insulation are all other steps that airports are taking to reduce their noise output." | See response to Comment #72 in addition to the following: The Proposed Action analyzed in the BWI Marshall EA does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport. In addition, there are currently run-up operations ongoing at various locations, some of which may be moved to the New Airline Maintenance Facility. The proposed maintenance facility area where additional run-up operations may occur (and the potential for increase in noise exposure is shown) is north of Runway 10, which is mostly contained with Airport property and is entirely within compatible land uses. The estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. To be considered a significant noise impact, the Proposed Action would need to result in an increase of 1.5 dB day night average sound level (known as DNL), or more over a noise sensitive area that is already exposed to noise at or above the 65 DNL exposure level OR that will become exposed to the 65 DNL due to a 1.5 DNL or greater increase when compared to the No Action alternative for the same timeframe. Noise sensitive sites include residential units, schools, places of worship and historic sites. It was determined that no additional noise sensitive sites are introduced within the 65 DNL contour for the Proposed Action as compared to the No Action. Additionally, the Proposed Action would not cause a significant noise increase over noise sensitive sites already within the 65 DNL contour as compared to the No Action contours. | No change. |
| 75 | Dan Cryan | 5/24/2020 | Tree Removal | We don't need additional noise pollution from the airport penetrating into Linthicum-Shipley and our neighboring communities. The fact that some of the construction will be behind Northrop Grumman does little to address the impact on the environment and the surrounding area. The removal of a significant amount of the natural sound barrier (trees) will increase in the airport noise pollution to which our community is subjected. To echo input provided by Mr. Woomeer, the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being | See responses to Comments #1, 2 and 74 in addition to the following: The tree removal is not expected to change the noise levels associated with aviation activity. In general, a noise barrier, which can sometimes be vegetation, is generally effective for highway noise (ground noise) but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree removal on private property would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place | No change. |

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| | | | | <p>maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, will ultimately increase noise pollution in Linthicum and surrounding areas. The removal of all of these trees and the clear cutting of 83 acres will increase rain/storm water runoff along with the significant increase already experienced from all the land development all along West Nursery Road.</p> <p>The statement that “the response provided indicated the FAA does not require additional intervention” is not a neighborly solution nor is the answer that the MAA analysis doesn’t find the removal of these trees to have a significant impact on airport noise penetration or amplitude in Linthicum-Shipley. The loss of forested land along the west border of our community is already dumping additional amounts of rain and storm water into the west border stream. This increase in run off water from hard structured surfaces bring with it an increase in pollutants being dumped into the remaining border green space and existing streams.</p> | <p>between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus, also maintaining the vegetative barriers that exist today between nearby residential areas. MDOT MAA acknowledges that tree removal has the potential to reduce the ability of those areas of dense vegetation to attenuate noise. However, the areas identified to be cleared of trees for Phase 1 improvements and Part 77 obstruction clearance do not remove all trees as part of the contiguous forest stand. (See Figure 1.2-2). Although the ability of vegetation to adequately attenuate noise is limited (especially compared to manmade noise barriers), the remaining tree stands can still provide limited noise attention. Note that in order to provide any potential noise benefit, in addition to the location of both the source (aircraft ground noise) and receiver (noise-sensitive land uses), dense stands of evergreen vegetation at least 100 feet deep would need to be present. As such, the selective tree removal in areas north of Aviation Boulevard would not result in increased noise exposure. Please also note that the Alternative 1 – 2015 ALP would have removed a considerably larger quantity of trees.</p> | |
| 76 | Dan Cryan | 5/24/2020 | Tree Removal | <p>In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I’m not an environmental expert, but I would also believe that the trees/foilage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well. The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.</p> | <p>See responses to Comments #1 and #71.</p> <p>MDOT MAA always seeks to be a good steward of Maryland’s natural resources but must also promote safety for the traveling public and the communities surrounding BWI Marshall. Providing a forest conservation easement to mitigate non-Part 77 related tree removal and working with residents during selective tree removal/alteration of obstructions strikes the balance.</p> | Complete. |
| 77 | Paul Verchinski | 5/23/2020 | General | <p>I am in the demographic that is susceptible to COVID19, 60 and over, so I am not going to areas like your offices per State of MD and Howard County restrictions for COVID19.</p> <p>As I said in my Email, which apparently was not set up for Emails from outside your agency for requests regarding the draft EA, you now want me to find an old Email. This is outrageous and points up that trying to do a review of the EA during this COVID19 does not allow for full public involvement AS REQUIRED UNDER NEPA.</p> | <p><i>[This email was received in response to an invitation from the Project Team to view a hardcopy of the Updated Draft document at MDOT MAA offices, by appointment, using safety protocols.]</i></p> <p>See response to Comment #70 from same Commenter.</p> <p>NEPA, and specifically FAA Order 1050.1F, Section 6-2.2b, states that a public meeting or public workshop for an EA is optional, and thus is not required. MDOT MAA and the FAA determined that holding a public workshop was important to receive inputs on the content and findings included in the draft document. Given the circumstances of COVID-19, MDOT MAA had to postpone the in-person public workshop scheduled for March 19th, 2020. After several months, it was decided that virtual public workshops would provide an adequate opportunity to present project information and receive public comments during an unprecedented time when social distancing was needed. The meeting was also conducted in this virtual setting to provide the opportunity to answer questions from the public as</p> | No change. |

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| | | | | | would occur, as much as possible, if we were able to hold the public workshop in-person. Questions and comments received by the chat function in the WebEx meeting were recorded and will be included in the Final EA and Section 4(f) Determination, which is typically not possible at an in-person public meeting. | |
| 78 | W.K. Lathroum | 5/25/2020 | Noise Tree Removal | Why no lant the helicopter in my side yard. rattling dishes in my house is not enough. I want BWI to be more intrusive on our life in Linthicum!!! (sic) PS: I will be formally objecting to MWI/MAAS/MDOT clearing 83 acres on your airport and absolutely opposing the removal/topping od any trees off of BWI property. Stick the above paragraph in your opposition folder. | See responses to Comments #1 and 74. The Proposed Action analyzed in the BWI Marshall EA does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport. Additionally, with respect to obstruction removal on private property, see response to Comment #2, Number 5. Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners and Anne Arundel County to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. In some cases, property owners have requested that MDOT MAA clear more trees on their property than those identified as obstructions. | Complete. |
| 79 | Barry Laurent | 5/26/2020 | Tree Removal | Please add my voice to those objecting to further tree removal north of BWI. There is too much noise now and this can only make things worse. Those trees and undeveloped land are the few remaining natural areas that haven't been paved over and are a haven in an otherwise overdeveloped area. | See response to Comment #1. Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas. | Complete. |
| 80 | Donna Williman | 5/28/2020 | Tree Removal | Thank you for the "virtual meeting" that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, the removal of 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community was discussed. In my opinion, the environmental impact of the tree removal has not been adequately addressed. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, | See responses to Comments #1 and 2. Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also | Complete. |

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| | | | | <p>historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increases our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents of my community.</p> | <p>maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 81 | Margo Falahee | 5/28/2020 | Tree Removal | <p>In response to BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in my community, the trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding</p> | <p>See response to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> | Complete. |

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| | | | | <p>communities, I cannot understand how you can consider this proposal as having “no significant impact.”</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I would suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 82 | Frank Riley | 5/29/2020 | Tree Removal | <p>Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and</p> | <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity</p> | Complete. |

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| | | | | <p>pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 83 | Marnie Ford (Secretary of NLIA) | 5/29/2020 | Tree Removal | <p>On May 24, 2020 Dan Cryan from Linthicum Shipley Improvement Association sent the email below to your attention.</p> <p>"As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.</p> <p>Although the MAA considers the removal of trees to be of no significant impact, the truth is, there will be an impact, to the environment and to the</p> | See responses to Comments #1, and #72 through #76. | Complete. |

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| | | | | <p>surrounding neighborhoods. We recently moved to Linthicum because of the beautiful neighborhoods and the low noise levels despite being this close to the airport. Neighbors and the LSIA indicated that the surrounding area and the MAA had a good relationship and worked out issues together. I find it appalling that you can propose the removal of 83 acres of forest and 1,102 individual trees from off the airport and 1,228 trees removed on airport grounds without adequately addressing the impact and replacing the trees with other trees or at least a sound barrier. This would also have an impact on wetlands and runoff into our streams. I realize you've studied this and consider it of "no significant impact", but as bad as our environment is (air, ground, and water), any additional impact without implementing a fix is unacceptable.</p> <p>To simply say that trees removed as part of the FAA flight path safety do not have to be replaced is ludicrous. Those trees have been there for decades and can be either trimmed or replaced and still offer flight path safety. In short, we lose our old trees and get little to nothing in return to maintain the health of the environment and surrounding areas. MAA indicated they will comply with the reforestation requirements through plantings and credits. However, the use of "credits" translates to the planting of "replacement" trees virtually anywhere in Maryland- does not replace the trees lost within and around our community.</p> <p>One study by the International Airport Review had the following to say about the noise pollution:</p> <p>"The level of noise that comes from airports has an effect on people's health through interference with communication, sleep disturbance, annoyance responses, learning acquisition, performance effects and cardiovascular and psychophysiological effects, and an increased risk of cardiovascular disease. The noise surrounding an airport causes a decline in the land values surrounding the area. Regulations like the use of sound barriers and other soundproofing techniques such as noise monitoring systems, operating restrictions and limits, air traffic management, and home insulation are all other steps that airports are taking to reduce their noise output."</p> <p>We don't need additional noise pollution from the airport penetrating into Linthicum-Shipleigh and our neighboring communities. The fact that some of the construction will be behind Northrop Grumman does little to address the impact on the environment and the surrounding area. The removal of a significant amount of the natural sound barrier (trees) will increase in the airport noise pollution to which our community is subjected.</p> <p>To echo input provided by Mr. Woomer, the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, will ultimately increase noise pollution in Linthicum and surrounding areas. The</p> | | |

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| | | | | <p>removal of all of these trees and the clear cutting of 83 acres will increase rain/storm water runoff along with the significant increase already experienced from all the land development all along West Nursery Road.</p> <p>The statement that “the response provided indicated the FAA does not require additional intervention” is not a neighborly solution nor is the answer that the MAA analysis doesn’t find the removal of these trees to have a significant impact on airport noise penetration or amplitude in Linthicum-Shipley. The loss of forested land along the west border of our community is already dumping additional amounts of rain and storm water into the west border stream. This increase in run off water from hard structured surfaces bring with it an increase in pollutants being dumped into the remaining border green space and existing streams.</p> <p>In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I’m not an environmental expert, but I would also believe that the trees/foilage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well.</p> <p>The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.”</p> <p>As a resident of Linthicum, and as secretary of the North Linthicum Improvement Association, I would like to echo the concerns raised by Mr. Cryan, as well as those raised by Senator Pam Beidle, and the concerns raised by many people in this community. Our Association will be discussing this issue by Zoom meeting on June 2, 2020 and just like Linthicum Shiplly, our relationship with the MAA has been a positive one. I am asking that you please reconsider your proposed plans to remove trees and consider instead topping trees or explore other options.</p> | | |
| 84 | Debbie Brodeur | 5/30/2020 | Tree Removal | <p>Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in</p> | <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also</p> | Complete. |

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| | | | | <p>Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 85 | Barbara Scanlon | 5/31/2020 | General | <p>Thank you all so much for the virtual meeting, so well organized and clarifying. Before the take-down date in June, I made copies for my family of Slide # 6 that shows us in Runway 15L's path. I appreciated the opportunity to do that.</p> <p>About clearing some trees in advance of your work, we needed to clear overgrowth from the shop Larry built and the septic areas serving the building. It was our pleasure to help the MAA and the pilots with some of the trees in the flight path. It will be a pleasure to watch the tree experts when they take care of the others.</p> | Comment noted. | No change. |

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| | | | | <p>Thanks, too, for the consideration the MAA has shown all of us around the airport in responding to our concerns about noise pollution. (All of us who were parents watching our young ones finally fall asleep after the last loud roar at 11 PM cheered on behalf of those efforts! And when we were finally moved out of the sound and flight path, we were grateful for the respite.) Please pass along my good wishes to all concerned in communicating that consideration to the FAA.</p> | | |
| 86 | Carole Daubert-Mascari | 6/1/2020 | Tree Removal | <p>I am writing this letter to express my views and thoughts on the beautiful trees around our BWI Airport. I've lived in the Glen Burnie, Pasadena, Linthicum area for the last 60 some years. I worked at the BWI airport with MD National Bank back in the day and also worked in the BWI parking garage as a cashier from 2015 till 2017. The landscape around the airport is very important to the surrounding area and neighborhood. Not only are the trees beautiful, they also help with noise control, air pollution, our wonderful wild animal habitats and the all around community health and well being.</p> <p>When I lived in Glen Burnie, we had many large oak trees and they were wonderful and beautiful but they also needed to be topped every couple of years. That certainly seems like a better solution to the tree problem. If the trees have to be removed, are they going to be relocated to another part of airport property? Please don't remove one of nature's most beautiful and majestic creations. It takes so long for the trees to grow into maturity, so please, please find a better, happier way of clearing the view for landing aircraft.</p> <p>Thank you for your attention to this serious matter.</p> | <p>See responses to Comments #1 and 2.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners and Anne Arundel County to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. In some cases, property owners have requested that MDOT MAA clear more trees on their property than those identified as obstructions.</p> | Complete. |
| 87 | Andrea and Ernest Zamora | 6/2/2020 | Tree Removal | <p>We recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove approximately 1000 additional trees in our community. According to our review of the plan, the environmental impact of the tree removal has not been adequately assessed and addressed.</p> <p>We have lived in Linthicum for over twenty years and experience the environmental protection provided by the trees in and around the airport. The removal of 83 acres of trees will increase our community's exposure to noise, air pollution, and storm water runoff. Anne Arundel County has suffered the loss of more critical tree canopy than any other county in the State of Maryland. The removal of 83 acres of trees will definitely have a significant detrimental impact.</p> <p>For the trees you plan to remove on airport property to build a new maintenance facility, there must be a plan to plant replacement trees in other areas of the airport property or as close to the airport as possible. This plan must have community input. Removal of trees in our community must NOT occur. Topping trees to allow safe landing for the planes would reduce negative environmental impact to our community.</p> | <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the</p> | Complete. |

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| | | | | <p>Every tree on the airport property and in our community is crucial to the environment and to the quality of life of the residents.</p> <p>We must each be good neighbors and not engage in actions that have a negative impact on the other.</p> | <p>larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 88 | Judy Anderson | 6/2/2020 | Noise and Tree Removal | <p>'Its just on-going loud noise. I also totally against you taking the trees down at the airport. We have enough noise here. We can hardly live a normal life. This will just make the noise worse with the runups. If there's anything else I can do to stop it, please let me know. Thank you.'</p> | <p>See responses to Comments #1 and 74.</p> <p>The Proposed Action analyzed in the BWI Marshall EA does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport.</p> | Complete. |
| 89 | Dana Stibolt | 6/3/2020 | Tree Removal | <p>I 100% agree with this letter. The noise from the Airport has grown far too loud. I used to live in Glen Burnie Park a noise zone for the Airport. I now live further away and the noise is about the same to me. Please find a way to save trees as the Airport. The Airport is not doing enough to support the community it shares with the rest of the county.</p> <p>Thank you for the "virtual meeting" that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to</p> | <p>The Proposed Action analyzed in the BWI Marshall EA does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport.</p> <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between</p> | Complete. |

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| | | | | <p>remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 90 | Christopher Augelli | 6/3/2020 | Tree removal | <p>I agree with the below sentiments expressed by Ms Beidle. BWI has a large effect on the quality of life in the surrounding area, and I appreciate any efforts that can be made, such as those described below, to help further mitigate its noise pollution and overall environmental impact.</p> <p>Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft</p> | <p>See response to Comment #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take</p> | Complete. |

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| | | | | <p>Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>place near runways and within interior areas of the Airport’s main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 91 | Warren Tignor | 6/3/2020 | Tree Removal | <p>I recently learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in the Linthicum area. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As a resident of Anne Arundel County, I live within the environs of the BWI Airport. I know Linthicum is a beautiful, historic community, bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and</p> | <p>See response to Comment #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also</p> | Complete. |

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|----|-----------------|----------|-----------------------|--|---|------------|
| | | | | <p>Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum, as well as Anne Arundel County.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding Anne Arundel Communities communities. The removal of 83 acres of trees increases our community's exposure to noise, air pollution and storm water runoff. I understand that Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. I believe that the removal of 83 acres of trees is absolutely unacceptable to us all. I cannot understand how you can consider this proposal as having "no significant impact." We all need healthy air to breath; trees are essential to healthy air.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents of Anne Arundel County.</p> | <p>maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 92 | Paul Verchinski | 6/3/2020 | Public Meeting Format | Consider this an official protest as noted below. In addition to myself there are undoubtedly citizens that could not attend your Virtual meeting due to a lack of Internet or computer capacity or provided accommodations. you are a State of MD entity and as such need to comply with all MDEPA requirements including the ability for the public to participate in this EA. | <p>Comment noted.</p> <p>As stated in the notice of the public workshops in March 2020 (postponed due to COVID-19) and the notice of virtual public workshops, special accommodation requests could be submitted to the project team via email or telephone.</p> | No change. |
| 93 | Paul Verchinski | 6/3/2020 | Public Meeting Format | Unfortunately, I have been unable to complete my review of the draft documents and CDs associated with this EA. This comprises my questions to date. | See responses to Comments #69, 70 and 77. | No change. |

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| | | | | My frustration last week with trying to participate in an on line meeting for the BWI draft EA. I deliberately copied my comments that I made in Chat since I intend to make similar comments into the public docket. The response below highlights the limitations of using virtual meetings when participants are not recognized by the organizers either deliberately or inadvertently due to software limitations. | | |
| 94 | Maureen K. Griffith | 6/3/2020 | Tree removal | <p>I recently learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in the Linthicum area. In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> <p>As a resident of Anne Arundel County, I live within the environs of the BWI Airport. I know Linthicum is a beautiful, historic community, bordered not only by BWI but surrounded by all modes of transportation– Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum, as well as Anne Arundel County.</p> <p>The trees in and around the airport are important environmental protection for all of the surrounding Anne Arundel County communities. The removal of 83 acres of trees increases our community’s exposure to noise, air pollution and storm water runoff. I understand that Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. I believe that the removal of 83 acres of trees is absolutely unacceptable to us all. I cannot understand how you can consider this proposal as having “no significant impact.” We all need healthy air to breath; trees are essential to healthy air.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the wildlife and residents of Anne Arundel County.</p> | <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport’s main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to</p> | Complete. |

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|----|---------------------|----------|------------------------|---|---|------------|
| | | | | | mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. | |
| 95 | Maureen K. Griffith | 6/3/2020 | COVID-19 | In addition, given the impact that COVID-19 has had to the contraction of the travel industry, I feel the need for the BWI expansion project must be reevaluated. | MDOT MAA recognizes the unprecedented impacts that the COVID 19 pandemic has had, and also understands that the pandemic will continue to affect activity levels at BWI Marshall for an uncertain amount of time. As discussed in the purpose and need for the improvements, the majority of improvements are not connected to activity level but are needed to meet FAA standards and to enhance airfield safety and efficiency. In addition, if there is no demand to build certain facilities when funding is available, they would not be built. For the time being, since no one knows the nature of the recovery, MDOT MAA is maintaining the existing aviation forecast. | No change. |
| 96 | Dave Barry | 6/3/3030 | Tree Removal and Noise | I recently learned of BWI Airport's plan to cut another 1000 trees plus clearing 80 more acres. We have been in Severna Park for about 22 years and I have concluded the County, airport and State governments want to remove all trees in any way possible. And they have been very successful. I would greatly appreciate the opportunity to vote against the "development" philosophy. As an aside the past 2 months have been the first and only months since we moved to Chartwell when we could have outdoor conversations that weren't drowned by aircraft noise. Every dark cloud..... | See responses to Comments #1 and 2. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing. Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners and Anne Arundel County to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future. In some cases, property owners have requested that MDOT MAA clear more trees on their property than those identified as obstructions. The Proposed Action analyzed in the BWI Marshall EA does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport. | Complete. |

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| 97 | Janet Holbrook | 6/3/3030 | Public Meeting Format | <p>May 21st, the Maryland Aviation Administration (MAA) held two virtual public workshops to present the current Airport Layout Plan (ALP) which is part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination.</p> <p>I am writing to object vehemently to the BWI development plan presented to the public in May.</p> <ul style="list-style-type: none"> 2 public presentations in May during a pandemic - no that is not adequate public notice | <p>The notices of the virtual public workshops (postponed from March 11th, 2020 due to COVID-19), including an extension of the public comment period to June 4th, 2020, was posted online at the MDOT MAA website and in <i>The Baltimore Sun</i>, <i>The Capital Gazette</i>, and <i>The Howard County Times</i> on April 23rd, 2020 and again in <i>The Baltimore Sun</i> on April 26th, 2020. This provided 30 days public notice of the workshops. Notice of the workshop was also submitted to the MDP Clearinghouse, the BWI Roundtable and the MDOT MAA's eNews Express.</p> | No change. |
| 98 | Janet Holbrook | 6/3/3030 | Tree Removal | <ul style="list-style-type: none"> 2K trees (83 acres) from the network that is essentially part of the greenways through Anne Arundel County. The gr that is vital to protecting the Chesapeake Bay. Not acceptable, the environmental impact statement is ludicrous. We really need to think of trees as one of our most valuable resources to combat climate change, especially ones that are part of a vital network | <p>See responses to Comments # 1 and 2.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | Complete. |
| 99 | Janet Holbrook | 6/3/3030 | COVID-19 | <ul style="list-style-type: none"> Do you think we might take a pause on airport expansion just now? I know air travel will rebound but it will take some time. | <p>See response to Comment #95. <i>Chapter 1, Purpose and Need, Section 2.1.2, Need</i> of the Final EA has been updated to address the impacts of COVID-19</p> | Complete. |
| 100 | Janet Holbrook | 6/3/3030 | COVID-19 | <ul style="list-style-type: none"> For my representatives - I hope you are thinking about how to "re-open" w/o everyone driving to work again. We don't need new toll lanes on highways, we found a better solution! <p>http://www.lsia.net/news</p> | <p>Comment noted; toll lanes are not relevant to the Proposed Action reviewed in the Draft document.</p> | No change. |
| 101 | Deborah and Don Weller | 6/3/3030 | Tree Removal | <p>The draft Environmental Assessment and the draft 4(f) Determination for Changes and Improvements at BWI Airport proposes to remove 83 acres of trees, including 1,102 trees on private property and 1,228 on airport property. I</p> | <p>See responses to Comments #1 and 2:</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that</p> | Complete. |

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| | | | | <p>hope you will support the effort to preserve every tree that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community and the County.</p> <p>Anne Arundel County has lost a significant portion of its tree cover, increasing the value of every remaining tree including those in and around the airport. Tree canopy plays a crucial regional role in the environment, providing benefits such as clean water and air, erosion prevention, climate control, sustaining ecological resources, and providing native species habitat. Additionally, tree canopy is valuable. Trees increase housing values, alleviate costs of controlling or repairing erosion, decrease spending on sewer standards, increase energy efficiency, and reduce medical costs related to health issues, such as asthma, that are associated with environmental degradation</p> <p>The trees in and around the airport are particularly important environmental protection for the surrounding communities. But, the direct impacts of tree removal on the local community do not appear to have been adequately accounted for in the analysis. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. The loss of over 2,000 trees will reduce air quality, increase temperatures, and reduce property.</p> <p>In short, how can the removal of 83 acres of trees have "no significant impact" as stated in the report.</p> <p>While I understand trees need to be removed to make room for the new maintenance facility and meeting FAA regulations, there must be a master plan for the replanting or replacing the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. The impacted homeowners should be offered new trees (not seedlings) at no cost (including planting). I find it disconcerting that planes will be flying so low over residential areas that a tree could be a hazard. The actual degree to which these trees are hazard needs to be carefully evaluated and clearly articulated to the community. I suggest that removal of any trees be an action of last resort and other options be explored to reduce the loss of any trees.</p> <p>In my opinion, the environmental impact of the tree removal has not been adequately addressed.</p> | <p>the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. 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After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> <p>BWI Marshall maintains a Forest Maintenance Plan (FMP) for approximately 3,500 acres of contiguous property along with an additional approximate 400 acres of MDOT MAA-owned and maintained property not contiguous with the BWI Marshall campus. The FMP provides a detailed record of existing forest</p> | |

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| | | | | | resources as well as areas that could be used for afforestation, identified pertinent State and Federal regulations and mandates governing those resources, and established standard procedures through which effective management of the forest resources could be achieved. The FMP serves as an agreement between the MDOT MAA and the MDNR – Forest Service to facilitate MDOT MAA maintenance activities regarding forest resources on the BWI Marshall property. The FMP also provides a repository for tree stands within the MDOT MAA property. | |
| 102 | Dave Harding | 6/3/2020 | Tree Removal | I am writing to express my concerns about the 2000+ trees set for removal as part of this project. At the rate we are going, our county won't have any trees left. I love the convenience of BWI and I am glad the people in charge continuously update and improve the facilities. That said, I love the Bay and it's tributaries more. The removal of trees and the replacement with impervious surface is going to create significant runoff and add to the pollution of the Bay. The trees not only help filter the water and absorb it but they also help filter the air pollution that is one of the consequences of the convenience of flying. | <p>See responses to Comments #1 and 2.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> | Complete. |

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| 103 | Dave Harding | 6/3/2020 | Tree Removal | There is so much already cleared space in that area and, given the changes that are coming based on the lives we have been living (office space will certainly be cheaper and many building will soon be empty as work from home has proven to be a productive business model for many). Why not save some money and possibly save the environment in the same move? This project is going to take years to complete. Think if you didn't have to clear space and all you had to do was purchase some buildings and remodel those structures. I think it is worth investigating. What if you make all these improvements but all your customers move away because this area loses it's #1 attraction ---- the Bay. Please consider saving the trees and re-evaluating other options for the project. | See responses to Comments #1, 2 and 95 in addition to the following: The proposed airport facilities that will require tree clearing must be on Airport property. These facilities include relocation of the Airport's fire training facility, the development of an Airline Maintenance Facility, and the relocation of a navigational aid (VORTAC). | Complete. |
| 104 | Kim Taylor | 6/3/2020 | Tree Removal and Noise | I live in Linthicum and have heard of the plan to remove many trees in our area. I am writing to explain how distressing it is to think of the removal of the trees and its impact on our quality of life. I live not very far from a new housing community that removed trees to build the homes and now I hear noise from the 695 highway. I've lived here 30 years and now I have the noise pollution from that. We also have the light rail very close to our home and that is another noise that's disturbing to the peace and quiet that once was our quiet neighborhood. Next but not least Next gen has dramatically affected our area, once again very loud jet engine noise day and night. No peace and quiet. I am asking you to please consider what will happen to our quality of life, to be fair and think of the residents in regard to pollution and air quality and noise. I am a widow who has lived here 30+ years and this is all I have left. I am pleading to you to stop this plan to remove the trees and let us have some peace. | See response to Comment #75. MDOT MAA offers portable noise monitoring for a two-week period upon request to eligible homeowners. Reports are made available to the homeowner and are published at https://maacommunityrelations.com/content/anznoiseupdate/noisemonitoring.php | Complete. |
| 105 | Candace Dayton | 6/4/2020 | Tree Removal | I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed. I grew up in Linthicum, about 1 mile north of the airport and now live a few miles away in Glen Burnie. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities. The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, | See responses to Comments #1 and 2. Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas. As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at | Complete. |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|-----|------------------|----------|--------------|---|---|-----------|
| | | | | <p>to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."</p> <p>While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 106 | Gary Gakenheimer | 6/4/2020 | Tree Removal | <p>As a resident of Anne Arundel County and a Watershed Steward I was appall when I heard this. We realize that the airport has growing pains but we also need to protect our forest. We are also planting trees in our woods and along our streets to help the environment. Did you know one tree about 18" round can absorb 5,000 gallons of storm water per year.</p> <p>On 83 acres of property we could be dealing with over 50,000 trees that help the environment. How much storm water is currently being treated by these trees. Sounds like Ellicott City needs to make some plans on moving when all of this water comes there way. Trees absorb carbon dioxide as they grow and the carbon that they store in their wood helps slow the rate of global warming. They reduce wind speeds and cool the air as they lose moisture and reflect heat upwards from their leaves.</p> <p>They also provide habitat for the wildlife and they can also block noise's at the airport for the surrounding communities. I firmly believe that companies should</p> | <p>See responses to Comments #1 and 2.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also</p> | Complete. |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|-----|-------------------|----------|--------------|--|--|-----------|
| | | | | <p>be responsible for replanting trees for the ones they say need to be taking down to extend a runway.</p> <p>Please reconsider your plans and put this on hold.</p> <p>Thank you for your attention in this matter.</p> | <p>maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> <p>Additionally, no Airport runways are being extended as part of the Proposed Action.</p> | |
| 107 | Lynne Rockenbauch | 6/4/2020 | Tree Removal | <p>I just recently learned about this project and have not had time to fully digest all the videos and other information that you have provided on the web, so I just want to let you know my concerns about the project for improvements at BWI Marshall Airport and why I am concerned. I am a life-long resident of Anne Arundel County, mainly in Severna Park. I have lived here over 65 years and understand the value of having the airport here. My father retired from Northrup Grumman and my husband and I have retired from the National Security Agency. I have no issue with the need for this project. My issue is with the idea that there is no significant environmental impact. That is just wrong. There will be a huge environmental impact. I have been trained as a Master Watershed Steward at the county Watershed Stewards Academy and have worked for over 10 years to improve the health of our county rivers and streams. I was president of the Severn River Association for four years and continue to help residents near county rivers and streams, including the Patapsco. I plant trees, maintain rain gardens, and advocate for public behavior change to benefit not only the rivers, wetlands, and streams, but the wildlife and people who benefit from clean water.</p> <p>Please work with the county in mitigating the loss of 83 acres of forest on the property as well as the trees being removed throughout the Linthicum neighborhood. Trees remove air pollution. They act as noise buffers. Trees reduce pollutants from stormwater, which are currently way too high and causing algae blooms and fish die-offs. Trees provide shade to cool the people, wildlife, and streams nearby. The state health department has stated that trees provide stress relief for neighbors who look at them, relax under them, and exercise around them. If they are being removed for structures, that may be unavoidable, but can be minimized and mitigated in a variety of way. If they are being removed to clear flight paths, perhaps they can be replaced with a different variety of tree which would not grow so high. See</p> | <p>See responses to Comments #1 and 2.</p> <p>Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas.</p> <p>As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements.</p> <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be</p> | Complete. |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|-----|------------------|----------|---------------------------------|--|--|------------|
| | | | | <p>http://aawsa.org/replant for more information about why the county has a program to plant over 4,000 trees. What a shame that this one project is going to remove almost that many. This project was not anticipated. How do we maintain hope of restoring our county waterways?</p> <p>Streams, wetlands, and floodplains are all integral parts of the health of our rivers and ultimately the Chesapeake Bay. Any disturbance to any of these can take years to recover. All have special jobs to do in maintaining a healthy environment for all of us. Streams, especially cooled by trees, are home to fish and amphibians, often unseen, that thrive on the insects and invertebrates that live in flowing water. Wetlands are similar and have a whole different set of creatures that depend on them. Floodplains have a purpose to slow down the flow of water to minimize erosion during storms. All of these lose their effectiveness when disturbed resulting in the degradation of our rivers and the bay.</p> <p>Again I urge you to work with County Executive Pittman and his environmental staff to come up with a better plan for this project to minimize damage done to the environment and to mitigate that damage which must be done.</p> | <p>selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |
| 108 | Rebecca Tocknell | 6/4/2020 | Comment Period | We urge the public comment period for the Environmental Assessment of the Phase I airport expansion to be extended due to the devastating effect of the pandemic on community organization and awareness activities. We believe this project is large enough that the virtual public sessions you held to be inadequate for gathering public feedback. | <p>Due to the pandemic the public workshop (scheduled for March 11th, 2020) was postponed and the comment period, which began February 6th, 2020 with the publication of the Updated Draft EA, was extended to June 4th, 2020 allowing the public approximately four months to review and comment. Notice of the virtual public workshop was published April 23rd, 2020, 30 days prior to holding the virtual public workshops to provide ample notice of the events. The virtual public workshop materials were on the MDOT MAA website from May 15th through June 4th, 2020 to allow review of these materials, including the workshop presentation, if unable to attend the virtual public workshop.</p> <p>All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MDOT MAA Environmental website from February 6 to June 4, 2020 at http://www.marylandaviation.com/content/environmental/environmentaldocs.html. Hard copies of the document were available at library locations, MDOT MAA offices and FAA offices from February 6th until mid-March, when libraries were closed due to COVID-19. However, MDOT MAA offices remained open and the document was available in hardcopy for review if electronic review was unavailable.</p> | No change. |
| 109 | Rebecca Tocknell | 6/4/2020 | Tree Removal and Comment Period | We disagree with your initial assessments that no significant environmental impacts will be felt with your preferred alternative. The excessive clearing of forest proposed is unacceptable to the health and goals of our local communities. It is unlikely that the noise and pollution effects felt by the | <p>See responses to Comments #1 and 108.</p> <p>All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MDOT MAA Environmental website from February 6 to June 4, 2020 at</p> | Complete. |

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|-----|--|----------|---------------------------------|--|--|-----------|
| | | | | community will be overcome by economic and safety gains felt by the airport patrons. Please allow more time and independent analysis of these effects. Thank you for providing a platform for public feedback. | http://www.marylandaviation.com/content/environmental/environmentaldocs.html . Hard copies of the document were available at library locations, MDOT MAA offices and FAA offices from February 6th until mid-March, when libraries were closed due to COVID-19. However, MDOT MAA offices remained open and the document was available in hardcopy for review if electronic review was unavailable. | |
| 110 | Jasmine Wilding on behalf of the GHCCA board | 6/4/2020 | Tree Removal and Comment Period | The General Highway Council of Civic Associations (GHCCA) urges that the public comment period for the Environmental Assessment of the Phase I airport expansion be extended due to the devastating effect of the pandemic on community organization and awareness activities. We believe this project will have huge effects on the public welfare and our environment. Virtual hearings alone are inadequate for gathering sufficient public feedback. We disagree with your initial assessments that no significant environmental impacts will be felt with your preferred alternative. The excessive clearing of forest proposed is unacceptable to the health and goals of our local communities. It is unlikely that the negative noise and pollution effects on the communities will be outweighed by economic and safety gains. Please allow more time and independent analysis of your proposal. Thank you for providing a platform for public feedback. | See responses to Comments #1 and 108. All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MDOT MAA Environmental website from February 6 to June 4, 2020 at http://www.marylandaviation.com/content/environmental/environmentaldocs.html . Hard copies of the document were available at library locations, MDOT MAA offices and FAA offices from February 6th until mid-March, when libraries were closed due to COVID-19. However, MDOT MAA offices remained open and the document was available in hardcopy for review if electronic review was unavailable. | Complete. |

COMMENTS RECEIVED AFTER JUNE 4, 2020

| | | | | | | |
|-----|-------------|----------|--------------|---|--|-----------|
| 111 | Faith Perry | 6/8/2020 | Tree Removal | I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation - Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities. The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Stuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact." While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas | See responses to Comments #1 and 2. Vegetation as a noise barrier is generally effective for highway noise, but not for airborne noise from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus also maintaining the vegetative barriers that exist today between nearby residential areas. As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must demonstrate that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. For several of the larger projects, there will be substantial stormwater management designed as part of the projects to meet MDE requirements. | Complete. |
|-----|-------------|----------|--------------|---|--|-----------|

Final Environmental Assessment and Section 4(f) Determination ALP Phase I Improvements at BWI Marshall Airport
 Comments on Updated Draft EA (February 2020)

| # | Commenter | Date | Topic | Comment | Response | Status |
|---|-----------|------|-------|--|---|--------|
| | | | | <p>of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.</p> <p>Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.</p> | <p>MDOT MAA considers alternative practices to clear cutting, including selective tree removal as well as lighting and marking of tree clusters where appropriate. In accordance with state regulations, on-site planting and off-site planting are considered prior to consideration of off-site conservation. The majority of obstruction removal (48 acres) is for Part 77 obstructions. These trees must be removed for the safety of aircraft and the public. The remaining forest clearing (additional 35 acres) is needed for the new Airline Maintenance Facility, Fire Training Facility and VORTAC. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered. The current clearing values represent a worst-case scenario; efforts to further avoid and minimize impacts will be assessed during the design process for each proposed activity. Also, see response to Comment #1 for other steps taken to minimize clearing.</p> <p>Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the Draft document, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree clearing (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). If tree replacement is desirable, MDOT MAA intends to replant on these properties at a 1:1 ratio with species that will not penetrate airspace in the future.</p> | |

Attachment 4:

Updated Draft EA Comment Letters and E-mails

June 2020

**COMMENTS -
ELECTED OFFICIALS**

PAMELA G. BEIDLE
Legislative District 32
Anne Arundel County

Finance Committee

Vice Chair

Executive Nominations Committee



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11 Bladen Street, Room 202
Annapolis, Maryland 21401
410-841-3593 · 301-858-3593
800-492-7122 Ext. 3593
Pamela.Beidle@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

May 28, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for the "virtual meeting" that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Stuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,



Pamela G. Beidle
Senator, District 32

CC: Senator Ben Cardin
Senator Chris Van Hollen
Governor Larry Hogan
Congressman Dutch Ruppersburger
Congressman John Sarbanes
Senator Ed Reilly
Senator Clarence Lam
Delegate Mark Chang
Delegate Sandy Bartlett
Delegate Mike Rogers
County Executive Steuart Pittman
Allison Pickard, Chair Anne Arundel County Council
Sarah Lacey, Councilwoman District 1

Subject: FW: BWI and MAA Proposal to remove over 2,000 trees

From: Renee Larkins <rlarkins@bwiairport.com>

Sent: Friday, May 29, 2020 2:24 PM

To: Paul Shank <PShank@bwiairport.com>; Darline Terrell-Tyson <DTerrell-Tyson@bwiairport.com>; Keiva Rodriques <KRodriques@bwiairport.com>; Robin Bowie <rbowie@bwiairport.com>

Cc: Ricky Smith <RSmith4@bwiairport.com>

Subject: FW: BWI and MAA Proposal to remove over 2,000 trees

Hello,

FYI-

From: Secretary MDOT <SecretaryMDOT@mdot.maryland.gov>

Sent: Friday, May 29, 2020 2:16 PM

To: Renee Larkins <rlarkins@bwiairport.com>

Subject: FW: BWI and MAA Proposal to remove over 2,000 trees

From: Dan Cryan <dan_cryan@verizon.net>

Sent: Friday, May 29, 2020 12:36 PM

To: Secretary MDOT <SecretaryMDOT@mdot.maryland.gov>

Subject: FW: BWI and MAA Proposal to remove over 2,000 trees

Secretary Slater,

Good afternoon. A local resident recommended that I share the following email chain with you as well. Can you assist in addressing these issues addressed in the email below?

Regards,

Dan Cryan

From: Dan Cryan [mailto:dan_cryan@verizon.net]

Sent: Thursday, May 28, 2020 12:21 PM

To: 'exjohn00@aacounty.org'

Cc: 'Chang, Mark Delegate'; Dan Woomer; Suzzie Schuyler; 'pamela.beidle@senate.state.md.us'

Subject: BWI and MAA Proposal to remove over 2,000 trees

Mr. Johnston,

Good afternoon. I was told that you are the AA County, Environmental Policy Director in County executive Pittman's office. The MAA has proposed removing hundreds of trees in and around BWI and will have an adverse impact on both the community and the environment. Below is the note I recently sent the MAA. We would appreciate your assistance if you can help.

To Whom It May Concern:

As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.

Although the MAA considers the removal of trees to be of no significant impact, the truth is, there will be an impact, to the environment and to the surrounding neighborhoods. We recently moved to Linthicum because of the beautiful neighborhoods and the low noise levels despite being this close to the airport. Neighbors and the LSIA indicated that the surrounding area and the MAA had a good relationship and worked out issues together. I find it appalling that you can propose the removal of 83 acres of forest and 1,102 individual trees from off the airport and 1,228 trees removed on airport grounds without adequately addressing the impact and replacing the trees with other trees or at least a sound barrier. This would also have an impact on wetlands and runoff into our streams. I realize you've studied this and consider it of "no significant impact", but as bad as our environment is (air, ground, and water), any additional impact without implementing a fix is unacceptable.

To simply say that trees removed as part of the FAA flight path safety do not have to be replaced is ludicrous. Those trees have been there for decades and can be either trimmed or replaced and still offer flight path safety. In short, we lose our old trees and get little to nothing in return to maintain the health of the environment and surrounding areas. MAA indicated they will comply with the reforestation requirements through plantings and credits. However, the use of "credits" translates to the planting of "replacement" trees virtually anywhere in Maryland— does not replace the trees lost within and around our community.

One study by the International Airport Review had the following to say about the noise pollution:

"The level of noise that comes from airports has an effect on people's health through interference with communication, sleep disturbance, annoyance responses, learning acquisition, performance effects and cardiovascular and psychophysiological effects, and an increased risk of cardiovascular disease. The noise surrounding an airport causes a decline in the land values surrounding the area. Regulations like the use of sound barriers and other soundproofing techniques such as noise monitoring systems, operating restrictions and limits, air traffic management, and home insulation are all other steps that airports are taking to reduce their noise output."

We don't need additional noise pollution from the airport penetrating into Linthicum-Shipley and our neighboring communities. The fact that some of the construction will be behind Northrop Grumman does little to address the impact on the environment and the surrounding area. The removal of a significant amount of the natural sound barrier (trees) will increase in the airport noise pollution to which our community is subjected.

To echo input provided by Mr. Woomer, the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, will ultimately increase noise pollution in Linthicum and surrounding areas. The removal of all of these trees and the clear cutting of 83 acres will increase rain/storm water runoff along with the significant increase already experienced from all the land development all along West Nursery Road.

The statement that "the response provided indicated the FAA does not require additional intervention" is not a neighborly solution nor is the answer that the MAA analysis doesn't find the removal of these trees to have a significant impact on airport noise penetration or amplitude in Linthicum-Shipley. The loss of forested land along the west border of our community is already dumping additional amounts of rain and storm water into the west border stream. This increase in run off water from hard structured surfaces bring with it an increase in pollutants being dumped into the remaining border green space and existing streams.

In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I'm not an environmental expert, but I would also believe that the trees/foliage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well.

The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.

Input must be provided by 4 June to Ms. Robin Bowie, Director, Office of Environmental Services.

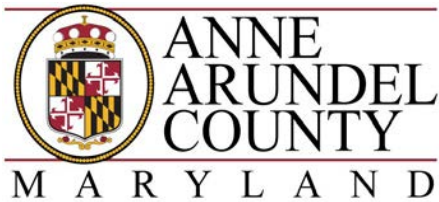
- (1) E-mail rbowie@bwiairport.com or

Write to:
Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240

- (2) Website with more details:

http://www.marylandaviation.com/content/environmental/environmentaldocs.html?fbclid=IwAR38P4NNCIV9x5hWaZBI9WW1T_kjoEjE5nIRXGNX3Wi64dsG3Wo6Rf7z8HY

Sincerely,
Dan Cryan



**Office of the County Executive
STEUART PITTMAN**

June 3, 2020

Ms. Robin M. Bowie
Maryland Aviation Administration
Director Office of Environmental Services
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for providing detailed information about the Baltimore-Washington International Marshall Airport (BWI) expansion project at a virtual public workshop on May 21, 2020. Based upon the documents provided at this workshop, it is my understanding that the proposed project will result in 83 acres of forest clearing on airport property, additional tree removal offsite on privately owned property, and impacts to wetlands, floodplains and streams. I urge the Maryland Aviation Administration to consider these environmental impacts to be significant, work to minimize the clearing of forests, trees and surface water impacts, and describe in detail mitigation efforts that will provide significant environmental benefits to the watershed and nearby communities.

The clearing of forests and wetlands has a significant impact on the health of Anne Arundel County's streams and the Chesapeake Bay. According to the US EPA's Chesapeake Bay Program Model, every acre of impervious surface in Anne Arundel County contributes ten times more nitrogen to the Chesapeake Bay each year than a comparable acre of forest or wetland. ¹ Nitrogen runoff can result in many water quality issues, including fueling harmful algal blooms such as the "Mahogany Tide" that has recently resulted in poor water quality and fish kills in streams across the county.

Such significant environmental impacts are preventable if building footprints are designed to minimize the clearing of forests and wetlands, and mitigation efforts are designed to improve environmental outcomes for impacted watersheds and communities. In an effort to avoid such impacts, the Anne Arundel County Council unanimously passed a bipartisan Forest Conservation Ordinance² earlier this year that guaranteed greater protections for existing forests and increased the amount of replanting required for development projects. Additionally, under my direction, the Anne Arundel Office of Planning and Zoning recently released enhanced wetland mitigation conditions ³ to offset significant environmental impacts caused by wetland disturbances.

The Best Place - For All

www.aacounty.org | 44 Calvert Street, Annapolis, MD 21401 | (410) 222-1821
countyexecutive@aacounty.org

To further protect our streams and the Chesapeake Bay, I urge the Maryland Aviation Administration to partner with Anne Arundel County to accomplish the following:

- Minimize the clearing of existing forests on BWI property;
- Minimize, or eliminate the disturbance of wetlands and their buffers on BWI property;
- Provide a detailed description of proposed mitigation efforts, including maps and acreage information;
- Seek opportunities to plant new forests and create new wetlands within the impacted watersheds in addition to any planned preservation of existing forests and wetlands; and
- Work collaboratively with individual homeowners and Anne Arundel County to replace any private or publicly-owned trees that must be removed with native, understory trees and bushes that provide similar environmental benefits and wildlife habitat.

Anne Arundel County and the Maryland Aviation Administration have always worked collaboratively to host and sustain the international transportation hub and economic driver that is BWI. I commit to continue that collaboration as BWI expands its operations in the coming years, and I look forward to partnering on environmental solutions to make that expansion possible.

Sincerely,



Steuart Pittman
County Executive

cc: Honorable Pamela G. Beidle, Senator, District 32
Honorable J. Sandy Bartlett, Delegate, District 32
Honorable Mark S. Chang, Delegate, District 32
Honorable Michael J. Rogers, Delegate, District 32

-
1. The 2018 Progress scenario produced by the Chesapeake Assessment Scenario Tool ([CAST](#)) indicates that wetlands and forests in Anne Arundel County contribute approximately 1.26 lbs of nitrogen/acre each year to the Chesapeake Bay, while impervious surfaces contribute approximately 13.05 lbs of nitrogen/acre each year. This represents a 936% increase in nitrogen pollution for every acre of forests that are cleared and replaced with roads, buildings and other impervious surfaces.
 2. [Bill 68-19: An Ordinance concerning Forest and Development – Forest Conservation.](#)
 3. [Anne Arundel County Office of Planning and Zoning Green Notice 20-06: Protections and Minimum Mitigation Conditions for Nontidal Wetlands](#)

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countyexecutive@aacounty.org

**COMMENTS -
AGENCY**

Howard County, Maryland

Howard County Office of Law

3450 Court House Drive

Ellicott City, Maryland 21043

(410) 313-2100

June 4, 2020

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240

SUBJECT: *Howard County Comments on The Updated Draft EA*

Dear Ms. Bowie,

In follow-up to our letter and comments of March 9, 2018, please find new Comments on the February 6, 2020 *Updated Draft Environmental Assessment and Draft Section 4(f) Determination* prepared for Federal Aviation Administration (“FAA”) approval of Airport Layout Plan Phase I Improvements at Baltimore Washington International Thurgood Marshall Airport (“BWI”). In general, the Comments detail why the Updated Draft EA remains legally insufficient even after the Maryland Aviation Administration revised its noise analysis in response to the County’s prior comments.

It is surprising that, despite Howard County’s prior comments on the January 5, 2018 Draft of this document and MAA’s litigation against FAA for unlawful flight path changes at BWI that resulted in significant harmful impacts in Howard County, MAA still has not corrected numerous deficiencies in its analysis and continues to refuse to candidly acknowledge and discuss the harmful impacts that have occurred in Howard County and will continue to occur due to the actions proposed in the Updated Draft EA. MAA’s efforts to sweep these issues under the rug is unlawful.

MAA’s shocking refusal over the last several years to consult with the County, as specifically required by NEPA, Section 4(f), and the NHPA, must be remedied. State and federal

law require much more careful consideration and explanation of environmental impacts, as well consultation with local governments such as the County. Because MAA has not performed an adequate analysis, including failing to consult with Howard County, the Updated Draft EA is legally insufficient and does not comply with Maryland or federal law. The EA does not establish a sufficient basis for FAA to make a finding of no significant impacts. If FAA were to arbitrarily do so in violation of the law, the County is prepared to take any action needed to protect its interests and those of its residents.

MAA should immediately begin an environmental impact statement (“EIS”) process to analyze the impacts of the proposed actions and related actions that have illegally evaded review, as acknowledged by MAA in its filings with the U.S. Court of Appeal for the D.C. Circuit in Case No., 18-1302. Only an EIS will comply with legal requirements, including NEPA’s requirements to review cumulative and connected actions and involve the public in decision-making.

The significant impacts resulting from the intrusion of the 65 DNL noise contour into Howard County as a result of FAA’s unlawful implementation of TERPZ 6 have *never* been reviewed as required by NEPA, Section 4(f), or the NHPA. MAA has acknowledged this in its federal litigation against FAA to reverse the unlawful changes, which abandoned a comprehensive noise abatement program that was well-established in federal, State, and local law. It is unreasonable and arbitrary and capricious for MAA to not candidly consider those impacts and engage with the public and the County about them. This is especially so because the proposed action will maintain the intrusion even if FAA is reversed on what MAA itself claims is an unlawful decision.

Despite its averments in federal court, MAA irrationally and unfairly relies on the unlawful changes as the “existing conditions” baseline against which it compares the impacts of the actions proposed in the Updated Draft EA to disingenuously find no significant impacts. If allowed to stand, this would mean that the 65 DNL intrusion into Howard County, which is undisputedly a significant impact and requires consultation with the County, will never be reviewed, or even acknowledged, and the County will never be consulted as the law requires. MAA may not evade its legal responsibilities with such injurious strategies.

MAA’s reliance on FAA’s unlawful action while simultaneously challenging that action in federal court is arbitrary and capricious especially because MAA does not even discuss it in the Updated Draft EA. Because the proposed action will result in the 65 DNL noise contour entering Howard County even if MAA and the County win their pending legal challenges to FAA’s illegal

actions, MAA must candidly acknowledge and discuss those impact and consult with Howard County, but it has not done so.

MAA should withdraw the Updated Draft EA and immediately begin work on an EIS that addresses the numerous highly controversial environmental impacts caused by BWI operations in recent years. The EIS must involve the public in its decision-making as required by law. Further, MAA should immediately consult with the County on the significant noise impacts that have occurred in Howard County in violation of multiple laws.

The County urges MAA to work with it to address the serious harms caused by FAA's unlawful actions at BWI. MAA's adversarial approach and refusal to acknowledge the problem will only perpetuate those harms and the need for redress to rectify MAA's and FAA's unlawful conduct. As I wrote you in 2018, Howard County looks forward to working with MAA to complete a legally sufficient Environmental Impact Statement.

Sincerely,

HOWARD COUNTY OFFICE OF LAW


for Gary W. Kuc
County Solicitor

Enclosures

cc. The Honorable Calvin Ball, County Executive
The Honorable Deb Jung, County Council Member & Council Chairperson
The Honorable Liz Walsh, County Council Member & Council Vice Chairperson
The Honorable Opel Jones, County Council Member
The Honorable Christiana Rigby, County Council Member
The Honorable David Yungmann, County Council Member
Lewis Taylor, Esq., Senior Assistant County Solicitor

HOWARD COUNTY COMMENTS

Updated Draft Environmental Assessment and Draft Section 4(f) Determination

Prepared by the Maryland Aviation Administration (“MAA”)

Introduction

As discussed in our 2018 Comments, the Updated Draft EA is legally insufficient because it does not adequately consider the environmental context or environmental impacts. An EIS is clearly required. Howard County appreciates that MAA has partly revised its analysis because the noise data used in the original Draft was insufficient; however, the County remains dismayed by MAA's apparent disregard for significant impacts that have occurred in the County as a result of unlawful airport operations at BWI, which will be exacerbated by the proposed actions. At no time over the last four years that MAA and the County challenged FAA's unlawful actions—which caused the “existing conditions” MAA now irrationally relies upon—did MAA consult with or even contact the County about remedying the situation. MAA cannot continue to ignore these significant impacts in evaluations such as the Updated Draft EA. An EIS must be prepared.

In addition to our 2018 Comments, these Comments incorporate by reference documents that detail the context and facts ignored by the Updated Draft EA. These include the filings by the State of Maryland in U.S. Court of Appeals for the District of Columbia Case No. 18-1302, as well as Howard County's filings in U.S. Court of Appeals for the Fourth Circuit Case No. 19-1062, which are in the possession of MAA as Intervenor-Respondent. The County also incorporates its filings in U.S. Court of Appeals for the Fourth Circuit Case No. 18-2360, attached hereto as Attachment A.

The EA should be converted to an EIS that examines relevant significant impacts that so far have escaped the reviews required by NEPA, Section 4(f), and the NHPA (the “Federal

Howard County Comments on MAA's Updated Draft 2020 EA

Statutes”). MAA cannot rely on existing conditions that it has admitted are unlawful as a reasonable baseline for measuring the significance of impacts. Nor can MAA totally ignore the highly controversial issues surrounding the airport and the expansion by sweeping evidence “under the rug.” Because of the faulty analysis and the failure to consult with Howard County, it would be arbitrary and capricious for FAA to find that there are no significant impacts from the proposed actions.

In fact, the Updated Draft EA is clear that the proposed actions will cause significant impacts in Howard County due to the intrusion of the 65 DNL noise contour across the County line. Yet, the EA fails to acknowledge or discuss that impact, or the fact that the significant impacts of the 65 DNL noise contour in Howard County have *never* been reviewed under the Federal Statutes and Howard County has never been consulted by MAA, despite clear legal requirements to do so.

MAA's approach violates Maryland and federal law. The Updated Draft EA must be converted to an EIS that analyzes the consequences of FAA's unlawful action in moving flight paths, from planned areas designated in law to new unplanned noise sensitive areas, without notice or review, as well as the cumulative consequences that will occur because of the proposed actions. Howard County intends to challenge any finding of no significant impact based on the Updated Draft EA because such a finding would be irrational, arbitrary and capricious, and otherwise not in accord with the law.

Comments

The Updated Draft EA Fails to Take the Required “Hard Look” at Environmental Impacts.

MAA's refusal to “candidly acknowledge” the significant environmental impacts in Howard County that have occurred without *any* review, and which will be exacerbated by the

Howard County Comments on MAA's Updated Draft 2020 EA

proposed action, does not meet the “hard look” requirements of the Federal Statutes. Given MAA's pending lawsuit against FAA for implementing unlawful flight path changes, MAA's reliance on those illegal flight paths as existing conditions is specious, particularly because MAA fails to even acknowledge the controversy and uncertainty in the Updated Draft EA.

MAA cannot continue to ignore noise impacts in Howard County. The proposed action will clearly result in the intrusion of the 65 DNL noise contour into Howard County. This is a significant impact. MAA may not rely on the argument that unlawful existing conditions moot the impacts of the proposed action. MAA has challenged the existing conditions in federal court because, according to MAA, FAA violated multiple laws in implementing the flight paths. Thus, MAA has acknowledged, outside of the Updated Draft EA, that the significant impacts of the 65 DNL noise contour entering Howard County have *never* been reviewed in any environmental, historic, or Section 4(f) assessment even though such reviews are required by law. MAA cannot rely on what it asserts are illegal existing conditions to justify impacts that, in and of themselves, will expand the 65 DNL noise contour into Howard County. The failure of the Draft EA to even address these issues demonstrates that it does not meet the legal requirements of the Federal Statutes.

MAA acknowledges that the proposed actions are intended to accommodate increased demand. This will clearly result in an increased use of the runways and unlawful flight tracks. EA Response 15.¹ Despite this, MAA also asserts that the proposed actions will not cause increased operations. It is irrational for MAA to seek approval for the proposed actions because they are “needed” to “accommodate existing demand,” while at the same time claiming that the proposed actions will *not* “materially affect” BWI's ability to “accommodate overall aircraft operations

¹ References are to Responses to Howard County Comments in Appendix N, unless otherwise identified

Howard County Comments on MAA's Updated Draft 2020 EA

demand.” This false dichotomy is simply an effort to escape required reviews and consultation. *Id.* The doublespeak renders the Updated Draft EA legally insufficient.

The proposed action will enable additional flight operations at BWI. MAA's admitted failure to analyze these impacts, (EA Response 15 and 17), means the EA is deficient. If the improvements are “necessary to accommodate the level of operations and passengers anticipated” they are obviously cumulatively, directly, and indirectly related to those increases. The fact that the proposed actions may not “unto themselves drive” growth, does not mean they will not contribute to increased operations such that those impacts can be ignored. *Id.* Any increase operational capacity will result in increased operations. Focusing solely on demand is arbitrary and capricious.

MAA's Reliance on Unlawful “Existing Conditions” is Unreasonable and Arbitrary and Capricious.

MAA wrote in response to Comments on the 2018 Draft EA, that “the status of compliance with the Noise Abatement Plan and Noise Compatibility Program is immaterial.” EA Response 9, 14, 19, 20-23. This could not be further from the truth and clearly shows how the Updated Draft EA fails to meet basic legal requirements. The Noise Compatibility Program was mandated by Congress and implements a significant program of cooperative federalism to limit airport noise pollution with the assistance of State and local government. The MAA has engaged in federal litigation against FAA for violations of this program and it is therefore directly relevant to any analysis of noise at the airport.

MAA cannot rely solely on existing conditions without further analysis and explanation. EA at K-2.4.8; K-3.2.8. MAA failed to comply with the law by using track geometry that: 1) is the subject of multiple federal lawsuits, including one brought by MAA claiming those tracks are illegal, and 2) has a high likelihood of imminent change based on MAA's characterization of FAA

Howard County Comments on MAA's Updated Draft 2020 EA

plans during the public presentation (although MAA did not discuss this in the Updated Draft EA in violation of the Federal Statutes).

On October 22, 2015, MAA wrote to FAA complaining that FAA had implemented flight procedure changes that failed to comply with the federal Noise Compatibility Program ("NCP") or the State's Noise Abatement Plan ("NAP"), which is required by the NCP and State law. When FAA did not respond, MAA followed-up with additional correspondence to FAA noting that the flight path changes were not addressed in an environmental assessment. Members of Congress, the Governor of Maryland, and local elected officials all asked FAA to return to the agreed-upon NCP and NAP. Finally, FAA agreed to do so if a Community Roundtable was formed that consented to a return to historic flight paths.

At its first meeting, the BWI Community Roundtable unanimously voted to ask FAA to return to historic flight paths that had been in place as part of Part 150 NCP for decades. The historic flight paths were carefully planned over non-residential areas where development was prohibited in favor of other areas. Now all that planned development is impacted by the changed flight paths because of FAA'S unilateral and unlawful decisions. Disregarding its promises, FAA still has not made any real attempt to return to the NCP and NAP. Yet MAA ignores all of this, in clear violation of the law. The Federal Statutes require more.

After repeatedly asking FAA to remedy its illegal and harmful action, MAA filed a federal lawsuit against FAA to require FAA to comply with the law. MAA has acknowledged that the TERPZ 6 changes caused significant impacts in Howard County but, despite multiple legal requirements to do so, neither FAA nor MAA has ever consulted with Howard County about these significant impacts. Now, MAA wishes to make more changes to flight operations at BWI that will result in additional significant noise impacts in Howard County. But MAA still has not

Howard County Comments on MAA's Updated Draft 2020 EA

consulted with Howard County. Instead, MAA relies on the faulty logic that the current existing conditions - which MAA has argued in federal court are unlawful - are the correct status quo and sole basis against which to consider the impacts of the action proposed in the Updated Draft. This is not legally correct. The Updated Draft EA must include a candid acknowledgement of the environmental context and evaluate how reasonably foreseeable actions and uncertainty affect its analysis.

The Updated Draft EA Unlawfully Ignores Relevant Information Including the Highly Uncertain Nature of “Existing Conditions.”

The Federal Statutes require an open and transparent acknowledgement of the facts and the context. The Updated Draft EA does not do that. Any reasonable environmental assessment cannot completely ignore important elements in the context of noise at BWI. Environmental assessments that ignore important aspects of a problem, or that explain decisions in a manner contrary to the evidence are unlawful because ignoring important aspects of a problem is arbitrary and capricious. MAA should not continue to attempt to evade review of the significant impacts that MAA admits have occurred in Howard County and will continue to occur because of the proposed action.

MAA ignored a vast array of information: noise contour changes in Howard County, MAA claims that FAA violated the NCP, the work of the BWI Community Roundtable, and public comments collected by FAA and MAA attesting to significant noise impacts that have never been reviewed. MAA's Administrative Petition to FAA characterized FAA's unlawful implementation of the unlawful flight paths as a “fundamental failure” of the environmental assessment process, and noted an astounding 4,100% increase in noise complaints, a number that has since grown exponentially. This is tremendously relevant to the environmental context at BWI, but MAA never mentions it.

Howard County Comments on MAA's Updated Draft 2020 EA

Nor is there any logic to MAA's position that it did not consider these impacts because the proposed action does not involve flight path changes. It is not about the flight path changes, it is about noise, which the proposed actions will increase. MAA admits that the proposed actions will cause the 65 DNL noise contour to enter into Howard County. Thus, even if MAA wins its legal challenge to FAA's unlawful action, the Updated Draft EA will have established a new "existing condition" of the 65 DNL in Howard County, so it will not be reviewed as a significant impact in the future. This house of cards does not satisfy the Federal Statutes.

Under NEPA, MAA may not ignore relevant information adverse to its decision. The statute requires a discussion of "any inconsistency with approved state or local plans and laws (whether or not federally sanctioned)." 40 CFR 1506.2(d). MAA efforts to ignore those plans and Howard County violate NEPA and the other Federal Statutes.

The proposed actions are clearly connected to activity levels and are meant to increase aircraft operations, including night operations. EA at K-3-2. Those operations will use the unreviewed and unlawful new flight paths. MAA cannot simply point to comments in an Appendix as sufficient discussion of this important information. This is especially true because, even though MAA has admitted that it had faulty data in the 2018 Draft and revised its noise analysis using some new data, it did nothing to update its Responses to comments about flight track and noise data. EA at N-1.

MAA may not ignore the harms caused by airport operations, which MAA itself has argued are illegal, and subsequently rely upon them to satisfy the reviews required by the Federal Statutes. An EA must provide the public with sufficient environmental information, "considered in the totality of the circumstances," to permit the members of the public to weigh in with their views and thus inform the agency decision-making process. The Updated Draft EA does not do that.

Howard County Comments on MAA's Updated Draft 2020 EA

As a result, MAA incorrectly frames the alternatives analysis. The “No Action” alternative assumes the continuation of the status quo, but that is highly unlikely due to the State’s and the County’s lawsuit against FAA, not to mention planned FAA changes to flight paths of which MAA is apparently aware because it mentioned them in the public presentation, although it did not discuss them in the Updated Draft EA, as it should have. In the face of such uncertainty, NEPA requires a thorough study of relevant evidence. 40 CFR § 1502.22(b).

A true study of cumulative impacts requires MAA to discuss past impacts and include a candid acknowledgement of the highly controversial nature of current BWI operations. 40 CFR § 1508.27(b)(4). MAA acknowledged the “serious” controversy repeatedly in its federal lawsuit against FAA; thus, under NEPA, it must carefully evaluate these “highly controversial” or “highly uncertain” impacts in an EIS. 40 CFR § 1508.27(b)(4) - (5). FAA Order 1050.1F also requires that, where an action may be “highly controversial” because of noise issues, an EIS should be prepared. Order 1050.1F at ¶¶ 6.4, 6.2.2(g) and at B-5.

The Fourth Circuit Court of Appeals specifically addressed this in *Nat'l Audubon Society v. Dept. of Navy*, 422 F.3d 174, 196 (4th Cir. 2005), a case involving similar circumstances.

NEPA’s hard look requires analysis of the combined impact that may result from tens of thousands of flights potentially passing over or near the same geographic area.

Because of the controversy and uncertainty, MAA should prepare an EIS that takes a fair and honest look at the unreviewed significant impacts that have occurred and will continue to occur as a result of the proposed actions.

The Partially Corrected Faulty Noise Analysis Still Fails to Adequately Address Significant Noise Impacts in Howard County

MAA’s discussion of noise impacts is misleading and incomplete. Appendix K identifies increases to the noise contour but, totally ignoring MAA’s federal lawsuit challenging the TERPZ

Howard County Comments on MAA's Updated Draft 2020 EA

6 flight procedure, ascribes the changes to “several factors including the differences in the noise models and fleet mixes.” EA at K-2-14. This is simply not correct. Those differences may be relevant but the primary factors in noise contour changes off Runway 28 are the illegal flight path changes including TERPZ 6. Figure K-2-4 shows the dramatic increase in size of the 65 DNL noise contour from what was expected though Part 150 planning. MAA cannot continue to ignore the fact that FAA's abandonment of Part 150 planning is the primary cause of the increase. According to other MAA statements on the record, FAA's unilateral and illegal movement of Runway 28 departures 13 degrees to the north, over noise sensitive areas, was the primary cause of the increase.

MAA also continues to fail to address the fact that significant impacts of noise are not limited to 1.5dB increase over 65 DNL. Under NEPA, 1.5dB may be a useful metric at the louder end of the noise range, but it does not control all possibilities. A large increase in noise can still be “significant” even if it is under 65db. For example, at a low level of 10dB, measured as DNL, an increase to 50dB DNL would be significant, which is why MAA must gather more data on the increase in noise volume outside the 65 DNL. Moreover, Maryland law and the other Federal Statutes do not use a significance standard or the 65 DNL.

Even without the existing conditions, the proposed action by itself will cause a 10.5% increase in the 65 DNL and a 27.6% increase over what was planned for in the Part 150 Study. EA at K-3-7. A more than a 25% increase in the size of the DNL noise contour over what was expected is a significant impact and must be reviewed in an EIS.

MAA Must Consult with Howard County

MAA is required by State and federal law to consult with Howard County on BWI flight operations that affect the County. MAA has failed to do so here, rendering the Updated Draft EA

Howard County Comments on MAA's Updated Draft 2020 EA

presumptively invalid. It is remarkable that despite the County's 2018 Comments, and despite MAA's own lawsuit against FAA alleging violations of the Federal Statutes, MAA did not have the courtesy to contact the County at all. Consequently, MAA has clearly not involved the public "to the extent practicable" as NEPA requires. 40 CFR § 1501.4(b). MAA should not add insult to injury by continuing to make decisions affecting the human environment in Howard County without carefully considering those harms in consultation with the County, as required by law.

The Updated Draft EA Does Not Satisfy MAA's Legal Obligations under Section 4(f) or the NHPA

In addition to its failure to consult with the County, MAA did not evaluate Section 4(f) and NHPA impacts in Howard County. As detailed in Attachment A, historic and culture properties in Howard County are directly and indirectly affected by the proposed action, which relies on relocated and concentrated flight paths that were never subject to review. Section 4(f) requires "all possible planning to minimize harm." 49 U.S.C. § 303(c). The Updated Draft EA does not comply with that mandate because FAA has abandoned the plans, for which the County and MAA have sought judicial relief.

Additionally, the Section 4(f) Study Area is inappropriately limited. The Study Area should to be "the three-dimensional geographic areas with the potential to be impacted by noise from the proposed project." Order 1050.1F at ¶ B-1.3. In responses to Comments, MAA wrote that the Study Area was developed considering the geographic area that "would potentially be impacted directly or indirectly using significance thresholds defined by FAA or in consultation with the specific resources agency." EA Response 13. MAA did not, in fact, do this. Howard County clearly has the "potential" to be impacted directly, indirectly, and cumulatively and thus it was required to be included in the Study Area, but it was not. It is clear that significance thresholds were crossed, but even were they not, significance thresholds do not apply to Section 4(f)

Howard County Comments on MAA's Updated Draft 2020 EA

properties that are noise sensitive areas, such as parks and schools. In addition, there are no land-use thresholds, or NHPA significance thresholds. Thus, MAA was required to consult with the specific resources agency, Howard County, but did not.

The Updated Draft EA admits that the 65 DNL noise contour will move into Howard County, but does not explain why Howard County was not consulted and does not quantify the increase in noise in Howard County. *Id.* It simply makes a conclusory assertion that the increased noise levels are “compatible with commercial uses,” but that is not the point. The question is the amount of increase, which MAA apparently does not know. Moreover, since MAA did not consult with Howard on “potential” impacts, as it was required to, there is no way to tell whether the land-use mapping relied on is valid. This is exactly why the law requires consultation with local government. Furthermore, FAA rules require consultation with officials having jurisdiction over affected properties. Order 1050.1F at ¶ B-1.6. Because MAA did not consult with the County, it did not comply with Section 4(f).

The NHPA requires examination of the “effects” of proposed actions, not just “significant impacts.” 54 U.S.C. § 306108. It also requires a detailed disclosure of *potential* impacts and a cumulative impacts analysis. Neither were done here. The Updated Draft EA fails to apply the correct Area of Potential Effects, which includes Howard County. Consequently, the Updated Draft EA does not comply with NHPA obligations. It is clear that historic reviews including Howard County are required and that Howard County must be consulted. 54 U.S.C. § 304108(b); 36 CFR §§ 800.2(a)(4), 800.2(c)(3), 800.4(a), and 800.5.

The Updated Draft EA Violates Maryland Law

As discussed in the County's 2018 Comments, MAA is currently in violation of Maryland law and relying on the Updated Draft EA compounds and multiplies those violations. MAA has

Howard County Comments on MAA's Updated Draft 2020 EA

not updated the Airport Noise Zone as required by law. MD CODE ANN., TRANSP. § 5-801, *et seq*; *see also*, EA Appendix N at page 9. Additionally, the inadequacy of the EA violates the Maryland Environmental Policy Act. MD CODE ANN., NAT RES. § 1-301, *et seq*. MAA must comply with its legal responsibilities by initiating an EIS in cooperation with Howard County.

Additional Questions and Clarifications

MAA appears to admit in Response 23 that dispersion was not accurately modeled. Please explain the extent to which the modeling reflects the actual concentration of aircraft relative to a particular back bone track, and the extent of deviation.

The meaning of the Response on page 8 of Appendix N is unclear when it states “nor is the Plan affected by the Proposed Actions evaluated in this EA.” Please clarify.

Please explain the status of the noise monitoring system, including when the new system become operational and whether any data was used to validate noise models, including an explanation of why it is not possible to use noise monitors to predict future noise contours as is stated in Response 26.

Please identify all of the studies mentioned at Response 26.

Please explain the status of the expected 2019 ANZ update mentioned at Response 28, and why it has been delayed, including whether the delay is in any way related to this or other environmental compliance related to noise.

Please update Response 30 to reflect the changed circumstance of the 65 DNL noise contour entering Howard County.

Please clarify what noise contours and flight tracks were used to perform climate, air quality and land use analysis, including the relevant time periods.

Howard County Comments on MAA's Updated Draft 2020 EA

Please explain the statement in Response 31 that the Part 150 Noise Compatibility Plan (Program) “has no bearing” on the study of noise impacts required by NEPA and Section 4(f), particularly in regard to forecasting conditions and considering future cumulative impacts.

Please explain how the conclusion was reached that the proposed actions will not induce operations. Response 38.

Please explain why, if the proposed actions will not materially affect BWI ability to accommodate demand (Response 38), the actions are proposed and why accommodating increased demand is used as part of the need for the project.

Please explain whether the assumptions regarding fleet mix, the fleet replacement plan, and growth forecast remain valid given the COVID19 pandemic. See Response 5, Appendix N at 21.

It is unclear for which operations there are few radar tracks and whether straight-in straight-out tracks are appropriate given departure changes. EA at ¶ K-2.4.8. It is also not clear whether the use of existing navigation fixes and departure procedures accurately reflects flight paths as actually flown. *Id.* Please clarify.

Please clarify the extent to which flight track geometry and noise analysis rely on pre-February 2016 data.

Please clarify the statement at 5-35, § 5.11, that the Preferred Alternative does not influence run-up operations.

Please explain whether MAA has considered any Part 161 operational changes to mitigate noise impacts.

Howard County Comments on MAA's Updated Draft 2020 EA

CONCLUSION

The Updated Draft EA attempts to partially remedy what it acknowledges were failings of the original draft, but the data remains insufficient, relevant information is ignored, specific legal requirements are not addressed, and Howard County was not consulted. For these reasons, the reasons stated in the County's 2018 Comments, and the reasons stated in the federal lawsuits filed by MAA and the County against FAA, the Updated Draft EA does not comply with State or federal law.

The County urges MAA to work with it to address the serious problems caused by FAA's unlawful actions at BWI. MAA's adversarial approach and refusal to acknowledge the problem will only perpetuate those harms.

Pursuant to 40 CFR 1501.4(e) and 1506.6(b), please mail notice of FAA's finding in this matter to the Howard County Office of Law. Additionally, please take every effort to ensure that any future efforts to consult with Howard County on this matter or any other matter involving environmental assessments at BWI is copied to the Howard County Office Law, the Howard County Executive, and the Howard County Council.

Thank you for your consideration of these Comments.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

HOWARD COUNTY, MARYLAND,

Petitioner,

V.

FEDERAL AVIATION ADMINISTRATION;
DANIEL K. ELWELL, Acting Administrator,
Federal Aviation Administration,

Respondent.

ON APPEAL FROM THE FEDERAL AVIATION ADMINISTRATION

OPENING BRIEF OF PETITIONER

HOWARD COUNTY OFFICE OF LAW

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**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS**

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 18-2360 Caption: Howard County, Maryland v. FAA

Pursuant to FRAP 26.1 and Local Rule 26.1,

Howard County, Maryland
(name of party/amicus)

who is Petitioner, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO

2. Does party/amicus have any parent corporations? YES NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? YES NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: 

Date: November 21, 2018

Counsel for: Howard County, Maryland, Petitioner

CERTIFICATE OF SERVICE

I certify that on November 21, 2018 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

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(signature)

November 21, 2018
(date)

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INTRODUCTION

In 2013, the Federal Aviation Administration (“FAA”) began implementation of the “Next Generation Air Transportation System” (“NextGen”). Since then, numerous legal proceedings across the country have alleged that FAA took actions to implement NextGen without informing the public and without performing environmental and other reviews required by three federal statutes: 1) the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321, *et seq.*, 2) the National Historic Preservation Act (“NHPA”), 54 U.S.C. §§ 300101, *et seq.* and 3) Section 4(f) of the Department of Transportation Act, § 303 (collectively, “the Federal Statutes”). Several of these lawsuits were brought by State and local governments whose property and citizens are being harmed by FAA’s actions.¹ *See, e.g., City of Phoenix, Arizona v. Huerta*, 869 F.3d 963, 965 (D.C. Cir. 2017) (finding FAA acted arbitrarily and capriciously in changing longstanding flight routes); *State of Maryland v. FAA*, No. 18-1173, pending in the D.C. Circuit Court of Appeals (involving Washington National Airport).

This case brings similar claims. Baltimore Washington International Thurgood Marshall Airport (“BWI”), operated by the Maryland Aviation

¹ The State of Maryland alleged in an Administrative Petition to FAA, involving some of the issues here, that FAA has a “nationwide problem” of “process failures” in complying with the Federal Statutes. JA 2109.

Administration (“MAA”), was one of the first airports subject to the implementation of NextGen, and FAA made more legal errors at BWI than anywhere else. FAA completed the DC Metroplex Environmental Assessment (“DC EA”)² for parts of NextGen in 2013. But the DC EA did not review the federal actions and orders challenged here.

The County challenges the FAA orders here because FAA covertly changed flight paths and procedures *after* implementing NextGen, and without performing the reviews required by the Federal Statutes; this includes three decisions that also violated the rulemaking procedures of the APA. Beginning in 2015, FAA began to make unannounced changes to flight paths and procedures that moved flight paths from their historic areas, where considerable legislation, regulation, and expense had been invested to avoid noise sensitive development, to residential areas that had not previously experienced heavy air traffic. In addition, air traffic that was once widely dispersed became incredibly concentrated, severely impacting the citizens who live under those narrow tracks. JA 1425-1427.

FAA failed to conduct any environmental or cultural reviews of these actions as required by the Federal Statutes. In addition to the County’s claims, the State of Maryland has alleged, and the Administrative Record shows, that there was

² The “DC Metroplex” covers a broad area from Richmond, Virginia to Baltimore, Maryland. JA 271.

“inadequate disclosure” of proposed airspace changes, and that any environmental reviews “never involved the surrounding community.” JA 2109. Ultimately, the changes resulted in FAA violating the “noise compatibility program” (“NCP”) required by 49 U.S.C. § 47504. This statutorily mandated program is enmeshed in State and local land-use law. MD. CODE ANN., TRANSP. §§ 5-805, 5-806, 5-812. Instead of addressing its violation of this important example of cooperative federalism, FAA arbitrarily and capriciously attempted to ignore it. *Ohio River Valley Env'tl. Coalition, Inc. v. Kempthorne* 473 F.3d 94, 102 (4th Cir. 2006).

Compounding its errors, FAA acted arbitrarily and capriciously in addressing the harms it caused. FAA provided inconsistent and misleading information to MAA, local, State, and federal elected officials, and to the public at large. In addition, FAA dictated paths for redress that it then abandoned, and it continued to make decisions in secret while purportedly engaging with the public in a transparent process. This resulted in the County filing an Administrative Petition with FAA to address FAA’s non-compliance with the law, which FAA denied.

The record demonstrates FAA arbitrarily and capriciously issued orders that failed to comply with the Federal Statutes and, in certain instances, failed to comply with the rulemaking provisions of the APA. The significant harmful impacts on Howard County and its citizens caused by FAA’s orders are inhumane, unethical,

and in violation of the Federal Statutes and the APA. This Court should vacate the orders challenged here and order FAA to comply with the law.

JURISDICTIONAL STATEMENT

Federal law establishes the right to challenge a final order of the FAA by “filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.” 49 U.S.C. § 46110(a). This includes FAA orders implementing new or modified flight paths. *City of Alexandria v. Helms*, 728 F.2d 643 (4th Cir. 1984); *City of Phoenix*, 869 F.3d at 970. A petition must be filed within 60 days after the order is issued “unless there are reasonable grounds for not filing by the 60th day.” 49 U.S.C. § 46110(a). In this matter, Count 1 was filed within 60 days of the final order at issue. Within 60 days of the order challenged in Count 2, the County filed an Administrative Petition with FAA and the instant matter was filed within 60 days of FAA’s denial of the Administrative Petition. Although the other orders challenged were more than 60 days old when the Petition for Judicial Review was filed, FAA’s failure to comply with the law, including notice requirements, and its misleading actions in dealing with the public, provide reasonable grounds for tolling the 60 days. *City of Phoenix*, 869 F.3d at 970.

Section 702 of the Administrative Procedure Act (“APA”) establishes a right of judicial review to anyone “suffering legal wrong because of agency action.” 5 U.S.C. §§ 702, 703. Here, FAA engaged in rulemaking that did not comply with the notice provisions of the APA, 5 U.S.C. § 553(b), was otherwise not in accord with the law, and was arbitrary and capricious. The court may set aside such unlawful action. 5 U.S.C. § 706.

The County has standing to bring this action because FAA’s unlawful decisions continue to adversely affect the County and the harms will be redressed by a favorable decision of this Court. *City of Alexandria*, 728 F.2d 643; *D&F Afonso Realty Trust v. FAA*, 216 F.3d 1191, 1194 (D.C. Cir. 2000) (finding standing to challenge FAA decision via a petition for review). FAA’s unlawful actions increased aircraft flights and noise in a way that adversely harms the County’s property interests, and also harms its governmental interests in protecting the public and historic, park, and cultural resources in the vicinity of the new flight paths. *City of Las Vegas v. FAA*, 570 F.3d 1109, 1114 (9th Cir. 2009) (local government has standing to assert claims against the FAA where flight tracks impaired environmental and land use interests). The harm to the County would be redressed by a favorable ruling that vacates the FAA decisions and requires the agency to comply with the Federal Statutes and APA.

STANDARD OF REVIEW

A. FAA Final Orders are Reviewed under the Arbitrary and Capricious Standard of the APA.

The standard of review for an FAA order is found in the Federal Aviation Act, 49 U.S.C. § 46110(c), and the Administrative Procedure Act, 5 U.S.C. § 706. A decision is an “order” if it provides a “definitive statement on the subject matter addressed and “conclusively settled that matter.” *City of Alexandria*, 728 F.2d at 646; *see also, Friedman v. FAA*, 841 F.3d 537, 541 (D.C. Cir. 2016). The Court reviews the FAA's findings to determine whether they are “supported by substantial evidence” and whether they comply with the APA. 49 U.S.C. § 46110(c); *City of Phoenix*, 869 F.3d at 970 (holding that FAA’s approval of the new flight routes was arbitrary and capricious and violated NEPA, NHPA, Section 4(f), and FAA Order 1050.1E); *see also, Safe Extensions, Inc. v. F.A.A.*, 509 F.3d 593, 604 (D.C. Cir. 2007) (citing APA § 706 in holding “we review the FAA's actions under the APA to determine whether they were ‘arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law’”). Courts have “ample authority to remand if the agency record is found inadequate.” *Blitz v. Napolitano*, 700 F.3d 733, 741 (4th Cir. 2012).

The “arbitrary and capricious” standard mandates a “thorough, probing, in depth review” of agency decision-making. *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971). To withstand review, an agency must articulate a

“rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (“*State Farm*”).

Agency action is arbitrary and capricious if the agency relies on factors that Congress did not intend for it to consider, entirely ignores important aspects of the problem, explains its decision in a manner contrary to the evidence before it, or reaches a decision that is so implausible that it cannot be ascribed to a difference in view.

Bedford County Memorial Hosp. v. Health and Human Services, 769 F.2d 1017, 1022 (4th Cir. 1985) (citing *State Farm*, 463 U.S. at 43); *accord*, *Ergon-West Virginia, Incorporated v. U.S. Environmental Protection Agency*, 896 F.3d 600, 609 (4th Cir. 2018).

B. Agency Rules under the APA.

Under the APA, a “rule” is an “agency statement of general applicability which implements, interprets, or prescribes law or policy.” 5 U.S.C. § 551(4). The Fourth Circuit has held that decisions like the three challenged here (Counts 3, 5, and 6) constitute rulemaking under the APA. *City of Alexandria*, 728 F.2d at 647 (holding that an FAA order implementing flight path changes “falls within the definition of a rule”); *North Carolina Growers’ Ass’n v. UFW*, 702 F.3d 755, 765-766 (4th Cir. 2012) (explaining that repealing rules constitutes rulemaking);

Kempthorne, 473 F.3d at 102 (finding that changes to cooperative federalism program constitutes rulemaking).

Like orders, rules are also reviewed under the arbitrary and capricious standard of § 706. The task of the reviewing court is to determine whether the agency has considered the pertinent evidence, examined the relevant factors, and articulated a satisfactory explanation for its action including whether there is a “rational connection between the facts found and the choice made.” *State Farm*, 463 U.S. at 43.

In addition, § 553 of the APA obligates an agency to provide notice before promulgating a final rule. This requirement is essential to the scheme of administrative governance established by the APA. “Congress made a judgment that notions of fairness and informed administrative decisionmaking require that agency decisions be made only after affording interested persons notice and an opportunity to comment.” *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979). When an agency fails to provide a required notice-and-comment period for a rule, the rule does not have the binding effect of law. *Id.* at 315-16. Additionally, agencies must explain their actions. If an agency fails “to provide a reasoned explanation,” the Court “must undo its action.” *Select Specialty Hosp.-Bloomington, Inc. v. Burwell*, 757 F.3d 308, 312 (D.C. Cir. 2014) (when an agency fails to state its reasoning, the Court can “declare with confidence that the agency action was arbitrary and capricious”).

THE FEDERAL STATUTES

FAA decision making is prescribed by the Federal Statutes: NEPA, NHPA, and Section 4(f).³

A. NEPA

The purpose of NEPA is “to sensitize all federal agencies to the environment in order to foster precious resource preservation.” *Nat’l Audubon Society v. Dept. of Navy*, 432 F.3d 174, 184 (4th Cir. 2005). NEPA requires federal agencies to identify, evaluate, and disclose to the public the environmental impacts of their proposed actions. 42 U.S.C. § 4332; 40 CFR. §§ 1500-1508. This review process has two primary purposes, ensuring the agency has considered detailed information, and ensuring information is available to the public so that “they may also play a role” in decision making. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349-50 (1989); *Nat’l Audubon Society*, 432 F.3d at 184 (holding the NEPA “requires an agency to disseminate widely its findings on the environmental impacts of its action”).

Under NEPA, federal agencies must take a “hard look” at environmental impacts, with a “candid acknowledgement” of the risks of those impacts based on a “holistic view” of what the agency has done before taking major actions to determine

³ County property and governmental interests falling under the Federal Statutes are identified in the DC EA.

if the actions will impose “significant” environmental effects they must be evaluated in an Environmental Impact Statement (“EIS”). *Nat’l Audubon Society*, 422 F.3d at 185-186; 40 CFR § 1502. Significant impacts may result from “cumulative” actions. 40 CFR § 1508.7. Proposed actions with environmental impacts that are less than significant or not fully known are evaluated in a more concise document known as an Environmental Assessment. 40 CFR § 1508.9. Certain federal actions may be eligible for a categorical exclusion from these requirements, if an agency has adopted procedures and found that the action “individually or cumulatively” does not have a significant effect on the human environment. 40 CFR § 1508.4. In addition to complying with the general NEPA regulations, FAA has published its own regulations for implementing NEPA and the other Federal Statutes. *See* FAA Order 1050.1F.

B. NHPA

Under the NHPA, federal agencies must account for the effect of actions on any historic properties. 54 U.S.C. § 306108; *City of Phoenix*, 869 F.3d at 971. Agencies must consult with stakeholders in potentially affected areas and assess the effect of the action on those properties. *Id.*; *see also*, 36 CFR. §§ 800.4, 800.5. Agencies must seek information from “individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area, and identify issues

relating to the undertaking's potential effects on historic properties.” 36 CFR § 800.4(a)(3). This includes local government. 36 CFR §§ 800.2(a)(4), (c)(3).

If the proposed undertaking, or action, has the potential to “diminish” the characteristics of a historic property, there is an “adverse effect” and the agency must “resolve” the adverse effect. 36 CFR §§ 800.5(a)(1), (d)(2). Criteria for an adverse effect include the “[i]ntroduction of . . . audible elements that diminish the integrity of the property’s significant historic features.” *Id.* § 800.5(a)(2)(v). If an agency finds “no adverse effect”, it must notify all parties and make documentation available to the public inspection before approving the action. 36 CFR § 800.4(d)(1).

C. Section 4(f)

Section 4(f) requires “special efforts” to reserve park and recreation lands, and historic sites. 49 U.S.C. § 303(a). It protects these lands from adverse effects of transportation projects, unless there is no feasible alternative. *Defenders of Wildlife v. North Carolina Dept. of Transp.*, 762 F.3d 374, 399 (4th Cir. 2014). If a project must occur, it may only proceed if it includes “all possible planning to minimize harm.” 49 U.S.C. § 303(c). Noise that is inconsistent with the use of park, recreational, and historic land implicates Section 4(f). *City of Phoenix*, 869 F.3d at 974 (holding that FAA’s use of 14 CFR Part 150 guidelines only to assess noise impacts on Section 4(f) lands was arbitrary and capricious).

D. FAA Order 1050.1F

FAA has adopted Order 1050.1F to serve as “policy and procedures” for compliance with NEPA. JA 842. The Order utilizes NEPA “as a framework” for compliance and notice with other “special purpose laws” including the NHPA and Section 4(f). FAA Order 1050.1F §§ 2-5.2(a), 4-2(f). The regulations include a dedicated Appendix for Section 4(f) compliance. FAA Order 1050.1F Appendix B.

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

1. Whether FAA’s refusal to consider the County’s Administrative Petition was arbitrary and capricious, where FAA stated publicly that such a Petition could be filed and where the Petition identified lapses in FAA compliance with the Federal Statutes?

2. Whether FAA’s order to abandon the public engagement process FAA established to address its failure to comply with the Federal Statutes was arbitrary and capricious?

3. Whether FAA’s decision to abandon, without notice, noise abatement programs established pursuant to federal law and enmeshed with State and local law, is arbitrary and capricious, or otherwise not in accord with the law, and whether the decision failed to comply with the rulemaking requirements of the APA?

4. Whether FAA’s decision, without any investigation, to continue unannounced flight path changes, despite learning that they resulted in a significant

impact on the human environment, and without any investigation was arbitrary and not in accord with the law?

5. Whether FAA's decision, without notice, to abandon vectoring as a primary means of air traffic control was arbitrary and capricious and not in accord with the law, and whether it failed to comply with the rulemaking requirements of the APA?

6. Whether FAA's decision, without notice, to implement flight path change TERPZ6 was arbitrary and capricious, not in accord with the law, and whether it failed to comply with the rulemaking requirements of the APA?

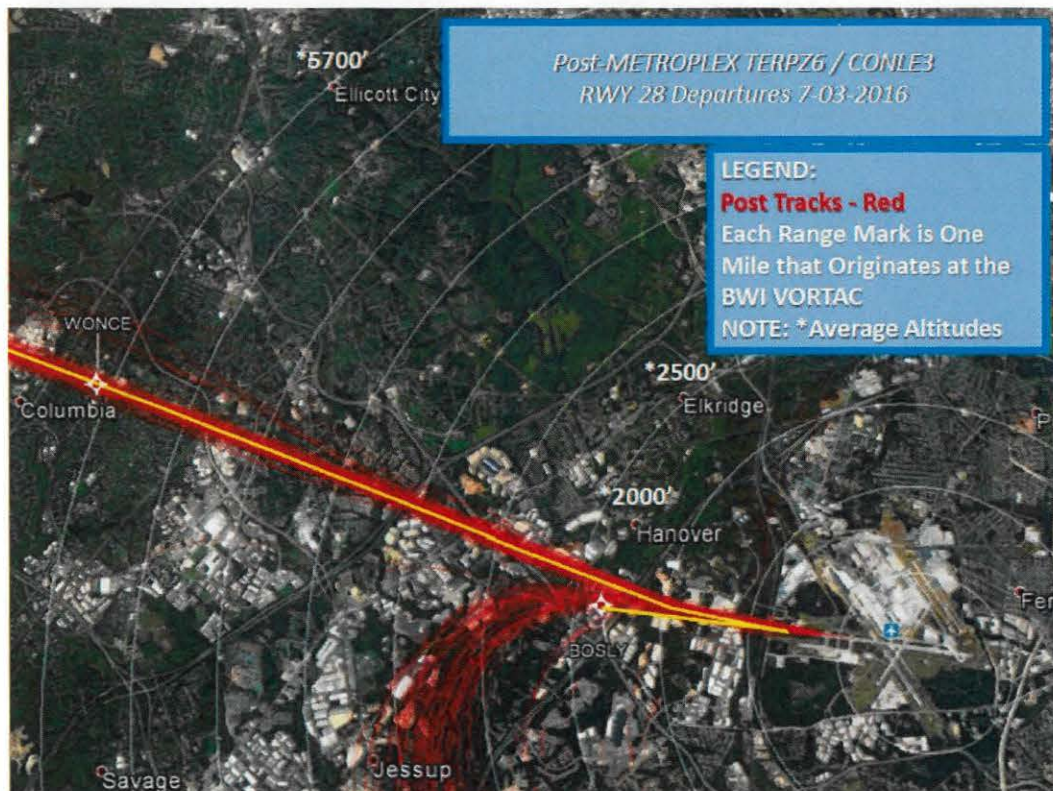
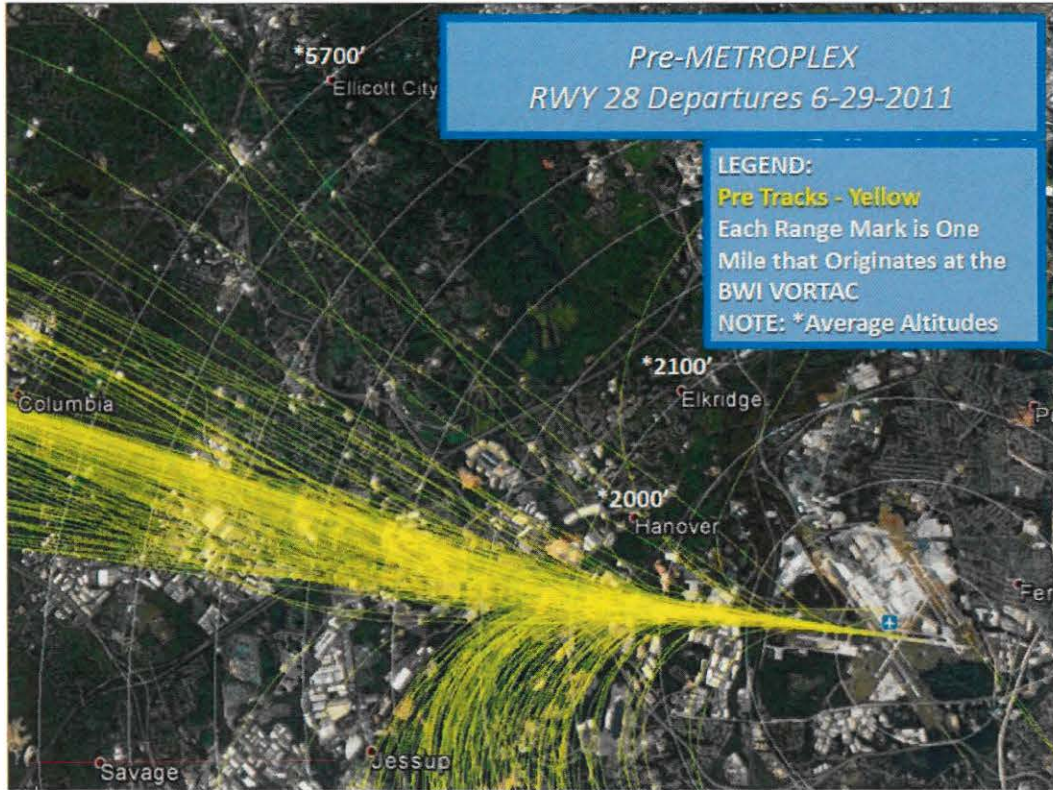
STATEMENT OF THE CASE

A. FAA's Unlawful Actions and MAA's Response.

In March 2015, FAA began implementing flight procedure changes at BWI that required reviews under the Federal Statutes, which FAA did not conduct. JA 528, JA 1196. These changes, referred to as TERPZ5 and TERPZ6, significantly altered departures from BWI Runway 28⁴ towards the west, placing departures in

⁴There are two primary runways at BWI. One runs east-west and carries the majority of departures westward off Runway 28. That same Runway is called "Runway 10" when planes headed east land at the airport. The other runway runs roughly north-south and is referred to as "Runway 33" when headed north and "Runway 15" when headed south. SJA 2931. Departures from Runway 15 are also affected by the FAA decisions challenged here and are also causing harmful impacts. JA 2215, JA 2216.

new routes over Howard County, including over the historic communities of Ellicott City, Elkridge, Hanover, and Columbia. Along with a cessation in the use of vectoring, an air traffic control procedure, to create equitable dispersion over populated areas, TERPZ6 concentrated air traffic over residential areas that previously had not experienced impacts from air traffic. See below. JA 1425-1427.



FAA did not conduct any of the required reviews or provide notice for these changes, even though they predictably and significantly increased air traffic noise. Neither TERPZ5, nor TERPZ6 are mentioned in the DC EA. TERPZ6 changed the departure heading from the natural orientation of the runway to 285°, north, to 298°. JA 1196. The DC EA specifically states that FAA was *not* proposing significant changes to flights under 3,000 feet. SJA 2928. But the flight track images clearly show that TERPZ6 was a massive change to departure flights under 3,000 feet. The DC EA also states that FAA only reviewed procedures “that mirror the existing flight paths over the ground.” SJA 2919. Thus, there can be no dispute that TERPZ6 was not addressed in the DC EA.

On October 22, 2015, MAA notified FAA that the flight path change did not comply with the federal Noise Compatibility Program (“NCP”) and the related State required Noise Abatement Plan (“NAP”) and Airport Noise Zone (“ANZ”),⁵ which document and control noise and land development near the airport, and had been in place at BWI, essentially unchanged, since 1990. JA 1197-1198. MAA explained to FAA that “departure procedures differ from the previous procedures in both flight

⁵ See 14 CFR Part 150 for the NCP and MD CODE ANN., TRANSP. §§ 5-805, 5-806, 5-812 for the NAP and ANZ. The NAP is part of the NCP and is based on Noise Exposure Maps (“NEM”), also referred to as “noise contour maps.” The Airport Noise Zone (“ANZ”) controls development near the airport. More detail is provided *infra* at Count 3.

track and altitude requirements for all runway departures below 3,000 feet AGL at BWI Marshall.” *Id.* The result is that aircraft that once flew in *dispersed* tracks over industrial commercial areas were now flying in *concentrated* single tracks over long established residential neighborhoods. *Id.*

After FAA failed to respond to MAA’s concerns, three members of Congress wrote to FAA on November 13, 2015. JA 993. The letter documents that the new departures did not comply with “the MAA prepared – and FAA approved – Noise Compatibility Program (NCP), or the state mandated Noise Abatement Plan (NAP).” *Id.*

After receiving these communications, on or about February 4, 2016, FAA decided to change TERPZ5 and implemented TERPZ6. JA 1195. There was no public notice of this flight procedure change. Moreover, not only did it not address FAA’s apparent abandonment of the NCP, it exacerbated the violation of the NCP by moving flight paths further to the north, away from their historic areas. JA 1425-1427; JA 1396, JA 1398.⁶

⁶ FAA presentations show the dramatic concentration of flights. The power point slides are best viewed electronically. Toggling back and forth between the slides shows how dramatically the flight paths were shifted. JA 1396-1398. Particularly noteworthy is the shift, from slide 20 to 22, which shows TERPZ6 implemented *after* FAA was notified it had violated the NCP, and which exacerbate the problem. The shift further to the north meant a further shift away from the NCP area. *See also* JA 1485-1487; JA 2237-2239.

B. FAA's Response to MAA's Complaint that the NCP had been Violated.

On March 9, 2016, FAA finally responded to MAA's October 2015 letter notifying FAA that its actions had violated the NAP and NCP. JA 1208. Bizarrely, rather than discussing the TERPZ6 change FAA had just made in February, or acknowledging that the NCP had been violated, FAA asserted that the March 2015 change to TERPZ5 was part of the flight procedures "associated" with the DC EA. But, TERPZ5 was not mentioned in the DC EA, much less TERPZ6. The letter then attempted to blame the noise on construction activity and ended by discussing a flight procedure change at *another airport*, as if it had occurred at BWI. *Id.*

C. Efforts of MAA and Elected Officials.

In April 2016, MAA replied to FAA and explained that construction activity at BWI "was not the issue," but that its concern stemmed from changes in flight departure paths. JA 1199-1200. MAA stated:

Simply put, the FAA's NextGen procedures depart from the long established flight procedures jointly developed by the FAA, the MAA and the communities in June of 1990 The recently implemented NextGen Terpz 6 departure procedures do not adequately address the communities' request that the FAA respect the NCP and NAP departure procedures. *Moreover, it is clear that these changes were not adequately addressed in the FAA's Environmental Assessment.*

Id. (emphasis added).

On May 19, 2016, MAA wrote to Senator Barbara Mikulski explaining that FAA had not evaluated impacts below 3,000 feet, that it was trying to work with FAA to restore the NAP and asking for her assistance. JA 1201-1212.

On May 24, 2016, the elected officials of Howard County, having tried “[f]or nearly a year” to engage the FAA on the “significant environment, health, and welfare issue” caused by FAA’s actions, wrote to FAA and demanded that it address the fact that it had employed new procedures that were not reviewed in the DC EA and had caused significant noise impacts. JA 1210.

On July 7, 2016, several members of the Maryland Congressional delegation wrote to FAA and requested that it immediately review and respond to MAA’s request to restore the NAP for BWI. JA 1317-1319.

On August 31, 2016, during a conference call between MAA and FAA, FAA informed MAA, *without explanation*, that the “Noise Abatement Procedures do not exist anymore.” JA 2221. Despite this, MAA continued to press FAA for relief and in a September 12, 2016 “technical exchange” with FAA, MAA noted that “residents have been waiting a year for FAA feedback on MAA’s request to restore the Noise Abatement Procedures.” JA 1323-1326.

D. Public Outrage and FAA Inaction.

On October 27, 2016, FAA and MAA hosted a public meeting attended by 450 community residents who submitted 214 comments. JA 1327-1328. Like the

members of the public in *City of Phoenix*, 869 F.3d at 966-967, the community shared concerns of shaking homes, lack of sleep, and not being able to be outdoors, along with declines in property values.⁷ JA 1654.

In November 2016, more than one year after MAA notified FAA that FAA had violated the NCP, FAA finally provided MAA with a more coherent response than the meaningless letter it sent on March 9, 2016 addressing issues at the wrong airport. The letter, however, was still deficient, and did not actually acknowledge that FAA had violated the NCP. JA 1329-1330. Rather, FAA only states that it did not agree with MAA “that a need exists to revert to previous procedures.” *Id.*

On December 12, 2016, the FAA Administrator finally responded to the July 7, 2016 letter from the Maryland Congressional delegation. JA 1331-1340. He noted that the “majority of the feedback collected requested that the flight paths return to aircraft courses that existed prior to the NextGen changes.” *Id.* The Administrator directed the parties to form a Community Roundtable “[t]o address the concerns of the community and MAA’s request for restoration of the BWI NAP.”⁸ JA 1331-1340. The Administrator stated that FAA would consider

⁷See e.g., JA 1655, 1663, 1665, 1671, 1676, 1689. The County respectfully asks the Court to read the entire catalogue of comments collected by FAA from homeowners whose daily lives were more than “significantly” impacted by FAA’s unannounced actions. The word “unbearable” was used by at least eight individuals.

⁸ Although the Administrator referred to the NAP in this letter, the NAP is not included in the Administrative Record.

reverting to previous flight procedures “if that is a consensus position after getting input from affected communities.” *Id.*

In January and February 2017, the elected officials of Howard County, asserting that FAA had failed to consider “the significant environmental impact” of its actions, enacted legislation to take legal action. JA 1341-1345. During the legislative hearings, public testimony described the incredible effect the concentration of *all* departing aircraft going over the same exact track, day and night, had on their basic human needs. People testified that they could no longer sleep, or be outside, they were afraid for their children, and they felt like they were in a “war zone.”⁹ One person summarized the testimony by stating that FAA’s actions were “an assault on my quality of life.” JA 2128.

E. The BWI Community Roundtable Resolution.

At the direction of FAA, the BWI Community Roundtable (“Roundtable”)¹⁰ was formed with members appointed by local and State elected officials. It held its

⁹ The testimony was incorporated into the record in the Administrative Petition filed by Howard County with FAA. JA 2128. The testimony constitutes an official public record and is available at <https://cc.howardcountymd.gov/Online-Tools/Watch-Us>.

¹⁰ The Roundtable is an independent entity created at the direction of FAA. Although the Howard County Executive and County Council each appoint one member to the Roundtable, the County does not represent the Roundtable. Roundtable documents can be found at <http://www.maacommunityrelations.com/content/anznoiseupdate/dcroundtable.php>

first meeting on March 21, 2017. JA 1365 - 1377. During the meeting, senior FAA official Robert Owens acknowledged the harms caused by the DC Metroplex, explaining that “the DC Metroplex project was the first of 21 in existence now and was therefore the test[,] meaning a lot of the lessons learned are coming out of the harm we’re all experiencing.” JA 1353. Mr. Owens admitted that “FAA did meet a legal standard for public involvement, *although it may not have been the most appropriate one.*” JA 1354 (emphasis added). He acknowledged further that FAA had learned from the DC Metroplex “that you need to invite people in at the beginning” and admitted that, while there was now “a process in place that does this, [it] was not yet in place for this project.” *Id.*

At this initial meeting, the Roundtable **unanimously** passed a resolution that FAA “immediately revert to flight paths and procedures that were in place prior to the implementation of NextGen.” *Id.* However, despite the assurances of the FAA Administrator in his December 12, 2016 letter to federal legislators that FAA would consider a Roundtable recommendation to revert to old flight paths, at the April 18, 2017 Roundtable meeting, FAA official Elizabeth Ray indicated that FAA would not be returning to old flight paths because those procedures “do not exist anymore.” JA 1406. But then, confusingly, she qualified her statement about not being able to revert to old flight paths by stating that the requested change could not occur “immediately.” JA 1411.

Also at the April 2017 meeting, in response to questions from the Roundtable about the 13 degree turn north for Runway 28 departures, “towards Hanover and Elkridge, which produced a noise impact that brought a new residential development and a school into the DNL¹¹ 65dB contour” being moved back to comply with the NCP, another FAA official, Bennie Hutto, said it would “need to be discussed with Tower.”¹² JA 1408-1409. He also indicated that FAA would look at a request to wait until planes are further from the airport to make the turn north. *Id.* The meeting closed with FAA promising to return to the Roundtable “with a list of things the agency can do in the short-term ... within 3-4 months ... such as sequencing, location of turns... as well as things to look at in the long-term time frame.” JA 1411. All this left the Roundtable confused, but with the firm impression that FAA was continuing to work with them to return flight operations to areas that had been planned and used for nearly three decades.

F. FAA Ignores the Roundtable Resolution.

On April 18, 2017, several members of the Maryland Congressional delegation sent a letter to FAA supporting the Roundtable’s March resolution and

¹¹ DNL stands for “Day-Night Average Sound Level.” 14 CFR 150.7. It is the metric by which noise exposure maps (“NEM”) are created.

¹² This is an apparent reference to air traffic control using vectoring to guide aircraft.

asking that FAA “take swift action to revert to pre-NextGen flight paths.” SJA 2913-2918. The Governor of Maryland made a similar request in May. JA 1412-1413.

On May 12, 2017, Ms. Ray wrote to the Roundtable and again asserted that reverting to the old flight paths “is not possible.” JA 1414-1415. However, the letter also stated that FAA was “committed” to giving full consideration to Roundtable recommendations” and that FAA expected the process to take 18-24 months.

At the May 16, 2017 Roundtable meeting, Ms. Ray again qualified her statement that it was “not possible” to return to old flight paths, again saying that FAA could not return to pre-NextGen flight paths “immediately.” She said “[t]hey need to be recreated” and described the process for doing so. JA 1436. During the meeting, Mr. Hutto stated that FAA would look at different dispersion possibilities to alleviate the harms caused by planes flying in concentrated single tracks over established residential neighborhoods. JA 1438-1439.

The FAA Administrator replied to the Congressional delegation on May 16, 2017 and also affirmed that FAA was working on flight procedure changes to return to pre-NextGen flight paths. JA 1441-1458. He also stated that FAA could not revert back to the old flight paths “immediately,” but that FAA was “committed” to working with the Roundtable to “amend existing procedures” or “create new procedures where possible.” *Id.* He stated that he had given this work “high priority” and that the process was expected to take 18-24 months. *Id.*

In June 2017, the Roundtable held their fifth meeting. MAA presented information showing the staggering increase in noise complaints since the implementation of NextGen. SJA 2920. A MAA representative stated that “BWI did not have a noise problem before the final Metroplex procedural changes.” JA 1653. FAA’s presentation at the meeting clearly shows the new and old flights paths from Runway 28 and acknowledges that they moved north. JA1594-1596, 1606. Mr. Belk, a manager in the FAA office for Performance Based Navigation, described the changes FAA was pursuing to return flight paths to their historic areas and to create more dispersion by using “vectoring.” JA 1645, JA 1651.

G. Vectoring, Waivers, Delay, and Obfuscation.

During the Roundtable meeting on July 18, 2017, FAA did not respond to the Roundtable’s standing request for FAA to address its non-compliance with the NCP. JA 1764. However, FAA acknowledged that Runway 28 departures had shifted “10 degrees over to the right,” or north. JA 1762. But TERPZ6 has actually changed this heading to 298, creating a 13, not 10, degree change to the north. JA 1196. JA 1726 shows old and new flight tracks based on the original Runway 28 285° heading versus the new TERPZ6 297° heading. Although FAA “confirmed” “that planes are

not able to take a turn before 3 DME,”¹³ FAA’s own mapping showed that turns were occurring at shorter range. JA 1763; JA 1427. The Chief Engineer for MAA, Paul Shank, explained that “when MAA compared the distance out from the runway to the altitude where planes were taking the turn, they saw this did not comply with noise mitigation requirements.” JA 1768. Mr. Owens said that it was possible for the FAA to return to vectoring aircraft, “to create randomness,” which would provide the community with relief, but now he indicated that a “waiver” would be required to use vectoring. JA 1764, 1766.

On August 1, 2017, the Governor of Maryland wrote to the Secretary of the U.S. Department of Transportation about his “deep concern about increased noise levels in several populous Maryland jurisdictions” and his “strong displeasure that the FAA had not provided immediate and meaningful reform to date.” JA 1773-1776. The Governor wrote that he had not received a reply to his May 11, 2017 letter to the FAA Administrator, and that the “Administrator does not seem to understand that chronic aircraft noise exposes otherwise healthy people to stress ... as well as directly negatively impacts property values.” *Id.*

¹³ DME stands for Distance Measuring Equipment, and is measured slant range from the navigational aid located near the center of the Airport. One DME equals one nautical mile. JA 1763.

At the August 27, 2017 Roundtable meeting, information was provided that Mr. Owens was working to obtain a waiver to use vectoring for departures, but Mr. Shank indicated he was “experiencing resistance.” JA 1782.

On September 8, 2017, the Roundtable again wrote to the Administrator with numerous exhibits illustrating the problems FAA had caused. JA 1783-1810. Relying on Mr. Owen’s representations, the Roundtable requested that FAA return to vectoring as its primary means of air traffic control at BWI. *Id.* At the Roundtable meeting on September 19, 2017, Mr. Owens again indicated that vectoring was being considered, but on a slower timeline. JA 1814-1815. He also announced, contrary to his previous assertion, that a waiver to return to vectoring was *not* required, and he apologized for the confusion the FAA had caused. JA 1815-1816. An FAA presentation to the Roundtable on November 7, 2017 noted that vectoring was still an option that could remedy some of the harms caused by NextGen. JA 1823; see also JA 1823.

On November 21, 2017, the Roundtable received a letter from a senior FAA official who acknowledged that flight paths were more concentrated than previous procedures. JA1856-1859. The letter also falsely stated that the new flight paths associated with Runway 28 departures had been considered under the DC EA. The letter concluded by stating that “FAA continues to work with MAA and BWI Roundtable.” *Id.*

During the December 5, 2017 Roundtable meeting, Mr. Shank announced that FAA had “figured out how to replicate noise abatement procedures with NextGen technology.” JA 1863. He also noted that MAA was continuing to ask FAA to respect the NCP. *Id.*

H. The April 24, 2018 Roundtable Meeting.

On April 24, 2018, the Roundtable met for a presentation involving several senior FAA officials. JA 2092-2106. During the meeting, FAA announced, without explanation, that, despite its previous statements, it would not “return to vectoring aircraft as a primary means of air traffic control.” JA 2097; JA 2011. The Roundtable inquired whether this was addressed in the DC EA, but FAA did not have an answer. JA 2010. The Roundtable asked under what environmental grounds the decision to no longer use vectoring was made, but FAA did not know. *Id.* The Roundtable asked when the decision was made to no longer use vectoring and FAA responded that vectoring could be used “at any time.” JA 2103. FAA’s failure to respond to some questions and contradictory responses to others from the body that FAA formed, demonstrate the arbitrary and capricious way the FAA treated its responsibility to make clear decisions in a way that informs the public, in plain language, of its decision making.

I. Maryland Files an Administrative Petition with FAA.

On June 26, 2018, the State of Maryland filed an Administrative Petition with FAA. JA 2107-2122. The Petition asked FAA to supplement the DC EA “in light of unanticipated and undisclosed impacts associated with FAA’s recent airspace changes.” JA 2109. The Petition asserted that noise concerns greater than what FAA had predicted were due to FAA’s “inadequate disclosure of the proposed airspace changes in the original D.C. Metroplex EA and contemporary categorical exclusions that never involved the surrounding community.” JA 2109. Lamenting that a year had passed with no concrete action, the Petition asserted that the DC EA did not show the actual proposed routes with sufficient specificity, “nor were noise levels identified or mapped.” JA 2110. The Petition described the DC EA as a “fundamental failure” of the environmental assessment process. JA 2111.

The Petition argued that FAA Order 1050.1F required additional environmental review where significant new information arises. JA 2112. The Petition stated that the TERPZ6 departure “added an entirely new leg north of the pre-Metroplex departure corridor, placing a concentrated stream of aircraft over communities that had not had more than scattered flights previously,” and which “was not disclosed and *could not be disclosed* in the Metroplex EA.” JA 2113 (emphasis added). The State documented the significant increase in noise complaints that were “4100 percent” more in 2017 than in 2011, and noted that “a

large proportion of the new complaints come from the areas of change.” JA 2115-2116. Finally, the State noted that, although FAA had used a categorical exemption (“CATEX”) for TERPZ6, it failed to follow the law in doing so because it did not consult with MAA as required by the National Defense Authorization Act of 2017 § 341(b)(4)(B). JA 2120.

J. FAA Abandons the Roundtable and Howard County Files an Administrative Petition with FAA.

On July 12, 2018, FAA notified MAA that it would no longer participate in the Roundtable. JA 2292. On July 18, 2018, Howard County also filed an Administrative Petition with FAA asserting, as the State had, that FAA had implemented new concentrated arrival and departure routes in violation of environmental and cultural review requirements in the Federal Statutes and FAA policy. JA 2125. The Petition further asserted that FAA’s unilateral abandonment of the BWI NCP, NAP, and ANZ was also done without the necessary reviews, and that both actions harmed the County and its citizens. Additionally, the Petition asserted that FAA’s decision making on vectoring was unclear and subject to challenge under the APA, and that its decision not to perform the correct environmental reviews was arbitrary and capricious. JA 2130. The Petition documented that the DC EA did not address the intense concentration of flights on one path, the significant alterations in flight paths, changes in altitudes, and FAA’s

abandonment of the NCP. The Petition requested that FAA take immediate action to comply with the law by performing the required reviews. On September 18, 2018, the FAA declined to respond to the County's Petition. JA 2912.

SUMMARY OF ARGUMENT

In each of the six FAA decisions challenged here, FAA failed in its obligations to conduct reviews required by the Federal Statutes. Additionally, in three of the decisions, FAA also failed to comply with the APA requirements for rulemaking.

All of the decisions concern FAA implementation, without notice or review, of flight procedure changes that drastically changed departure and arrival routes at BWI, inflicting harmful impacts on Howard County property and citizens. There was no notice of FAA's actions, but eventually it became apparent that FAA had unilaterally abandoned federal and State noise abatement programs, imposing what FAA's own regulations refer to as "significant" noise impacts. Although FAA was advised by MAA of its noncompliance, FAA *refused* to comply and continued to make additional decisions that violated the Federal Statutes and the APA.

Howard County followed FAA directions to attain redress, but FAA repeatedly and arbitrarily rejected the very methods for relief it had identified. Each decision is subject to judicial review as a final order.

FAA's conduct has been arbitrary and capricious by any measure, and the FAA has acted in violation of the rulemaking provisions of the APA. Therefore, the

decisions challenged here should be vacated. The Court should order FAA to revert to the flight paths and procedures that existed prior to 2015.

ARGUMENT

1. FAA's Final Order Declining to Address the County's Administrative Petition was Arbitrary and Capricious.

FAA's decision to disregard the Administrative Petition filed by Howard County is a final order subject to review by this Court. The Petition was the final effort by the County to work in good faith with FAA "without being forced" to go to court. *City of Phoenix*, 869 F.3d at 970. Because the denial of the Administrative Petition represents the consummation of the FAA's response to the County's claims set forth in the Petition and the record, the denial is subject to review by this Court. *City of Alexandria*, 728 F.2d at 646. The decision is arbitrary and capricious because it was the culmination of FAA noncompliance with the Federal Statutes in numerous decisions and because it abandoned the course charted by FAA in redressing the harms it caused.

Like the petitioner in *City of Phoenix*, the County promptly and diligently engaged with FAA to address the harmful impacts caused by FAA action. 869 F.3 at 967. Throughout the odyssey of the County's good faith efforts to engage FAA, the agency has consistently told the public to take certain, specific steps to redress their concerns, only to then ignore or abandon those very same processes. Initially, FAA proffered the NCP as a mechanism to control noise impacts at BWI and then

abandoned it without notice. Then, FAA proffered vectoring as a solution to the public's concerns, but took it away based on decisions made behind closed doors. FAA proffered the Roundtable as the mechanism for redress and said it would revert to old flight paths if that was the Roundtable's recommendation, but when that recommendation was made, FAA did not revert. Adding insult to injury, FAA then abandoned the Roundtable. Based on this, the County acted, as directed by FAA, by petitioning FAA with a specific list of grievances and citing record evidence, but FAA refused to consider either the County or the State's Administrative Petitions.

FAA denied the County's Administrative Petition with no explanation other than no "formal right exists" JA 2312, but FAA told the Ninth Circuit Court of Appeals there was just such a right. Counsel for FAA, in a case similar to this one, specifically stated during oral argument that if the public took issue with flight procedures, then "the remedy is to go to FAA" and ask for changes. He stated: "you can always petition the agency for action [,] if the agency denies the petition and says, we're not going to act or, or they act in a way you don't like [,] then you challenge that." *Lyons v. FAA*, 671 Fed. Appx. 674 (9th Cir. 2016) Oral Argument (December 14, 2016) 2016 WL 9275438 at *8. The State of Maryland and Howard County both engaged in the process outlined by FAA, and then FAA reversed course, without ANY explanation, totally ignoring its statements to the federal court, which were specifically referenced in the County's Petition. JA 2126. FAA's

decision to ignore the Administrative Petition should be vacated as arbitrary and capricious. *Bedford County Memorial Hosp.*, 769 F.2d at 1022 (holding that ignoring important aspects of a problem is arbitrary).

An agency may not hold out a process for redress and then unilaterally ignore or abandon the process without explanation. “[A]gency action is arbitrary and capricious if it departs from agency precedent without explanation.” *Ramaprakash v. FAA*, 346 F.3d 1121, 1124 (D.C. Cir. 2003).

An agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not causally ignored and if an agency glosses over or swerves from prior precedents without discussion it may cross the line from the tolerably terse to the intolerably mute.

Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970); accord *State Farm*, 463 U.S. at 57; see also *Airmark Corp. v. F.A.A.*, 758 F.2d 685, 692-695 (D.C. Cir. 1985) (finding FAA decision making “grossly inconsistent and patently arbitrary” and “insisting” that FAA act in a consistent manner, with any deviations “carefully reasoned and fully explained”).

FAA’s rejection of the County’s Petition references the DC EA. However, the County’s Petition did not challenge the DC EA. Rather, the Petition clearly stated, as had MAA for two years, that the DC EA did not address significant flight path changes that had been implemented at BWI. Because the DC EA did not

address those changes, they have never been reviewed under the Federal Statutes. The Petition documented that MAA had informed FAA as early as October 22, 2015 that the flight path changes were not discussed in the DC EA and did not comply with the NCP, which had been in place, essentially unchanged, since 1990. JA 2224-2225. As a result, aircraft that once flew in dispersed tracks over industrial commercial areas were now concentrated in single tracks over long established residential neighborhoods. JA 1197-1198.

FAA acted arbitrarily and capriciously when it failed to address any of this in declining to respond to the County's Administrative Petition. Because the FAA's decision to not consider the County's Administrative Petition was arbitrary and capricious, the Court should order FAA to carefully consider the Petition and perform the necessary reviews under the Federal Statutes so that its final decision on the Petition is properly informed.

2. FAA's July 12, 2018 Final Order to Cease Participating in the BWI Community Roundtable was Arbitrary and Capricious.

FAA's decision to abandon the Roundtable was arbitrary and capricious for the same reasons as the refusal to consider the County's Administrative Petition; FAA held out the Roundtable as the mechanism to redress the harms it had caused, and then arbitrarily and capriciously abandoned it. FAA established the Roundtable in March 2017 as the specific mechanism for the community to seek redress for the harms FAA caused. FAA then provided contradictory information for over a year

before announcing additional decisions in April 2018 that were made without required reviews or public notice.

As is detailed in the Statement of the Case, FAA constantly changed its position without explanation; which is the very definition of arbitrary and capricious. Examples of this include the vacillation on vectoring and the shifting position on whether FAA would comply with the NCP. All the while, as FAA pretended to work with the Roundtable, FAA was planning to – and did – take additional harmful actions without informing the public or performing required reviews.

Then, in July 2018, FAA informed MAA via an e-mail that, “due to pending litigation we are unable to continue our conversations with the Roundtable, the Airport or the associated contractors on these issues.” JA 2292. This decision is a final order as it ended the Roundtable as a mechanism for redress, and it is without any basis, let alone a reasonable basis. In keeping with its failures at basic communication, FAA never formally notified the Roundtable of its decision.

FAA’s basis for abandoning the Roundtable is that the State of Maryland filed suit in a case involving *another airport*. JA 2311. In abandoning its participation in the Roundtable, FAA also claims, without explanation, that the State and the County’s Administrative Petitions somehow prevent it from engaging with the Roundtable. But FAA does not even consider the administrative petitions to be litigation and declined to even consider them. JA 2912.

FAA's delays and misrepresentations compelled the MAA to file an Administrative Petition. FAA then abandoned all dialogue with the public via the Roundtable and blamed the State, which had only been trying to get FAA to discuss its ongoing violation of the NCP. The Court should condemn the coercion evident in FAA's position that if *anyone* takes action to protect their rights, FAA will talk to *no one*. It is arbitrary and capricious and not in keeping with multiple provisions of federal law requiring federal agencies to make decisions in public, on record evidence, and in a manner that is not arbitrary, capricious, or an abuse of discretion. *See, e.g., Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (finding that NEPA requires broad dissemination of relevant environmental information); *State Farm*, 463 U.S. at 43.

There is nothing more arbitrary and capricious than to instruct an injured party to take a specific action to redress their injuries and then, after they do, tell them you will not consider their claims. FAA's abandonment of the Roundtable was the consummation of its response to legitimate claims by the public at large; via a body FAA created and identified as having authority to engage with FAA, and that engaged with the FAA in good faith. The record of FAA's interaction with the Roundtable is considerable and capable of review. Therefore, it is subject to review by this Court. *City of Alexandria*, 728 F.2d at 646.

Pursuant to the Federal Statutes, this Court should order FAA to resume regular communications with the BWI Roundtable and reverse the unannounced and unreviewed flight path changes until they are properly reviewed with the consultation of the Roundtable.

3. FAA's Final Order to Abandon, Without Notice or Comment, Federal and State Noise Abatement Programs was Arbitrary and Capricious and Violated the Rulemaking Provisions of the APA.

A stark example of FAA's disregard of noise impacts is FAA's secret decision to abandon longstanding noise abatement procedures. Based on available information, the County has identified April 24, 2018 as the date of FAA's decision because it is impossible to know exactly when, or how, FAA made the decision. In fact, FAA has never formally announced its decision. Instead, it informed MAA via telephone that the noise abatement procedures "do not exist anymore." JA 2221. This decision is a violation of the Federal Statutes and the rulemaking requirements of the APA.

A. The Federal Noise Compatibility Program.

Federal law requires the FAA Administrator to carry out certain responsibilities, including ensuring "that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities." 49 U.S.C. § 47101(a)(2). To achieve this, FAA is specifically directed to issue regulations to "control and abate" aircraft noise, which FAA has done. 49 U.S.C. §

44715(a)(1)(A)(ii); 14 CFR Part 150. The regulations establish “noise compatibility programs” (“NCP”) that are “necessary” to provide a “highly reliable” analysis of projected noise exposure resulting from airport operations. 14 CFR § 150.1. The federal NCP is based on “noise exposure maps” (“NEM”), also referred to as “noise contour maps,” that document noise levels around airports. 49 U.S.C. § 47503. The goal is to avoid noise sensitive land uses, such as residential uses. An NCP has been in place at BWI since 1990, and was essentially unchanged until FAA secretly decided to unilaterally abandon it.¹⁴ JA 1197-1198.

Federal law requires that “notice and an opportunity for a public hearing” are required before an NCP may be submitted to FAA. 49 U.S.C. § 47504(a)(1)(B). This indicates that public notice is likewise required before FAA abandons an NCP. More importantly, 14 CFR § 150.35(d), requires FAA to notify MAA if it intends to “rescind or modify” the NCP, and allow MAA an opportunity to address the proposed change, but FAA did not do that here.

B. Maryland’s Airport Noise Zone.

Legislative efforts to control noise from airports in Maryland date to at least 1974, when the Environmental Noise Act was enacted to prevent “new noise

¹⁴ FAA approved the BWI NEM in 2016. 81 FR 59714-01 (Aug. 30, 2016). This was based on the Airport Noise Zone Update prepared by MAA in 2014. The 2016 update did not affect noise contours, land use inventory, or population estimates. JA 1217.

problems in areas near airports” through the adoption of noise abatement plans and the establishment and enforcement of noise zone regulations. 1974 Md. Laws Ch. 287 at 995; *see also*, MD. CODE ANN., TRANSP. §§ 5-805, 5-806, 5-812; COMAR 11.03.01.12. The Act requires the development of a “noise abatement plan” (“NAP”) and preempts local zoning by creating an Airport Noise Zone (“ANZ”) to restrict development in noise sensitive areas near BWI. *Maryland Aviation Administration v. Newsome*, 337 Md. 163, 165 (1995) (upholding the ANZ). The ANZ is an essential part of the NAP, and fulfills federal requirements for an NCP established under 14 CFR part 150. JA 1258; JA 2162-2163.

C. FAA’s Failure to Consider the NCP, NAP, and ANZ was Arbitrary and Capricious.

As an initial matter, neither the NAP nor the ANZ are included in the administrative record supplied by FAA. This is an admission that FAA did not consider them in making the decisions challenged here.¹⁵ This failure to consider relevant information renders the decisions arbitrary and capricious. *See North Carolina Wildlife Fed’n v. North Carolina Dept. of Transp.*, 677 F.3d 596, 602-603 (4th Cir. 2012) (finding a violation under NEPA where a review contained incomplete information). Furthermore, when an agency takes action that does not

¹⁵ The NAP and ANZ are also not addressed in the DC EA, which demonstrates FAA’s historic and ongoing non-compliance with the Federal Statutes. The decisions challenged here were not reviewed in the DC EA.

comply with local zoning, NEPA requires a high level of scrutiny and such an action may require an EIS. *Maryland-National Capital Park and Planning Commission v. U.S. Postal Service*, 487 F.2d 1029, 1037 (D.C. 1973) (holding that when the Federal Government “exercises its sovereignty so as to override local zoning protections, NEPA requires more careful scrutiny”). Here, FAA made the decision to abandon the NCP, NAP, and ANZ without *any* environmental reviews, much less an EIS.

D. Abandoning the NCP, NAP, and ANZ without Notice or Review Violated the Federal Statutes.

As with other decisions challenged here, the decision to abandon the NCP, NAP, and ANZ is arbitrary because, once again, FAA directed the public to take certain actions to redress harms that it later, and without warning, totally disregarded. FAA directed MAA and the State of Maryland to establish a NCP to address noise issues and then, without notice or the reviews required by Federal Statutes, abandoned the program without explanation, and by doing so abandoned its legal obligations under 49 U.S.C. § 47504 and 14 CFR 150.35(d).

In addition to the requirements set forth in the Federal Statutes, NEPA regulations and FAA policy require the discussion of “possible conflicts” between an action under review and State and local “land use plans, policies, and controls for the area concerned.” 40 CFR §§ 1502.16(c), 1506.2(d). FAA policy requires that “[w]here an inconsistency exists, the NEPA document should describe the extent to which the agency would reconcile its action with the plan.” JA 659; 40 CFR

§1506.2(d). FAA guidance directs that the environmental review “include a discussion regarding consistency with state and/or local plans.” JA 662. But this was not done, and here, there is not just an “inconsistency,” rather, FAA *totally rejected* the State and local plans that it previously required be established, and which must be carefully considered under the Federal Statutes.

For airport actions, FAA regulations require that the environmental review must include documentation that shows that the airport operator has met the requirements of 49 U.S.C. § 47107(a)(10), including “the adoption of zoning laws” to restrict the use of land to purposes “compatible with normal airport operations, including landing and takeoff of aircraft.” *Id.* This shows how much the NCP relies on the State’s NAP and ANZ, yet FAA apparently asserts that it has the power to void the State and local plans without notice or comment, and without performing any reviews in violation of basic administrative procedure. This is not only arbitrary, it is also not in accord with the law and violates rulemaking requirements.

Agencies must document and explain their decisions. They must take a “hard look” at the environmental consequences of their actions and provide for “broad dissemination” of relevant information. *North Carolina Wildlife Fed’n v. North Carolina Dept. of Transp.*, 677 F.3d 596, 601 (4th Cir. 2012) (quoting *Methow Valley Citizens Council*, 490 U.S. at 350). “NEPA procedures emphasize clarity and

transparency of process,” and an “open and public environmental assessment process.” *Id.* at 603-604.

This is especially true where there is a significant departure from reasonable expectations. “An agency changing its course must supply a reasoned analysis.” *State Farm*, 463 U.S. at 57 (quoting *Greater Boston*, 444 F.2d at 852). “An agency may not, for example, depart from a prior policy *sub silentio* or simply disregard rules that are still on the books,” as occurred here. *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

FAA’s decision to abandon the NCP is a remarkable repudiation of federal law. As such it is arbitrary and capricious, and that alone is fatal to the decision, but the failure to perform reviews or provide notice also condemns the decision.

E. FAA’s Abandonment of the NCP is a Rulemaking Subject to Notice and Comment under the APA.

FAA’s decision to abandon the NCP is rulemaking subject to the notice requirements of 5 U.S.C. § 553. The APA provides a “broad” definition of “rulemaking.” *North Carolina Grower’s Ass’n, Inc. v. United Farm Workers*, 702 F.3d 755, 763 (4th Cir. 2012). A rule is an “agency statement of general applicability which implements, interprets, or prescribes law or policy.” 5 U.S.C. § 551(4). Here, the NCP is subject to rulemaking processes to be adopted, including public notice and publication in the Federal Register. 14 CFR § 150.35.

FAA's arbitrary decision to abandon the NCP is also a decision implementing FAA law and policy and so constitutes a rulemaking. *See North Carolina Grower's Ass'n*, 702 F.3d at 763-765 (holding that the withdrawal of a regulation constitutes rulemaking). When FAA stated that the noise abatement procedures "do not exist anymore," it was rescinding the NCP and declaring that the NCP was now without legal effect. It did so without following the APA's rulemaking mandates.

Such decisions may only be made *after* affording interested persons an opportunity to comment. *See Chrysler Corps.*, 441 U.S. at 316. The importance of notice and comment procedures "cannot be overstated." *North Carolina Grower's Ass'n*, 702 F.3d at 763. It is critical to ensuring informed agency decision making. *Id.* The process is supposed to "encourage" public participation. *Id.* By requiring "openness, explanation, and participatory democracy" in the rulemaking process, the APA negates the "dangers of arbitrariness and irrationality in the formulation of rules" while simultaneously maximizing the "susceptibility of the record to judicial review." *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1028 (D.C. Cir. 1978).

FAA violated the APA by failing to notify and engage with MAA and the public before deciding to abandon the NCP. In light of the foregoing, this Court should vacate FAA's decision to abandon the NCP and order it to comply with the NCP.

4. FAA’s Final Order Imposing Significant Noise Impacts after it Learned it Violated the NCP was Arbitrary and Capricious.

In October 2015, MAA notified FAA that FAA’s changes to flight paths – specifically, the turn north caused by TERPZ6 – made departures from Runway 28 come out of compliance with the NCP. At this time, FAA became aware that areas that were previously completely outside the NEM were now within the noise contours. These noise increases constituted a “significant” impact that triggered a high level of scrutiny under the Federal Statutes. Yet FAA did **nothing**. Not only did it abandon the NCP, but it ignored the fact that areas and people formerly outside of the noise contours were now within those noise contours. FAA’s inaction constitutes a decision to impose significant impacts without legally required reviews. This is arbitrary and capricious and not in accord with the law.

A. FAA Caused Noise Increases that Constitute Significant Impacts.

FAA Order 1050.1F identifies “significance thresholds” related to agency action, including designating certain increases in noise levels, as *per se* “significant,” as that term is used in the Federal Statutes. *See* Order 10501.F § 11.3.1. The significance thresholds do not address all circumstances, but provide guidance for common situations. However, the situation here is uncommon.

In general, an increase of 1.5 dB for any area exposed to 65 dB or higher, or that will be exposed to 65dB if the action under review is implemented, meets the

general threshold for significance. *Id.* B-1.5. If 1.5 dB is a general threshold for significance, certainly a higher increase would be a significant impact.

As demonstrated by FAA mapping showing that flight tracks have been moved 13 degrees to the north, it is clear that dramatic increases in dB have occurred. JA 2237-2239; JA 1485-1487; JA 1916, 1990. The noise contour maps at JA 1916, 1990 show noise contours from the NCP (2014 and 2019 projected) compared to noise contours developed for an environmental assessment for proposed work at BWI that is not at issue here. However, the “BWI EA Existing Conditions (2016)” noise contour shown at JA 1916 is based on real data and shows how the contours are moving north. Moreover, this data is only based on two weeks worth of information from 2016, JA 1911, after TERPZ6 had been implemented. More data would show an even bigger movement to the north. In fact, an examination of 2018 noise contour maps produced by MAA shows that Columbia, which was formerly far outside the 55 dB contour is, as a result of FAA action, now within it.¹⁶ Similarly, the movement north of the contour lines is evident when viewing their proximity to

¹⁶ MAA has prepared noise contour maps based on real data, and other analyses, which shows that areas formerly outside the noise contours are now within the contours because of the turn north created by TERPZ6. This document, *MAA Analysis of April 24, 2018 FAA Proposed Procedure Changes at BWI* (December 4, 2018), is the subject of the County’s Motion to Supplement the Administrative Record.

the Elkridge Library. SAR 1. It also shows that the 60, 65, and 70 dB contours have increased and SAR 2 shows how departures have deviated from the natural heading of Runway 28.

B. FAA Must Review its Actions that Impose Significant Impacts.

The 13° turn to the north as a result of TERPZ6 was not a slight deviation from the NCP; it was a renunciation of the NCP and it imposed significant impacts. There is no question that the NCP, in the words of FAA, “did not exist anymore” as a direct result of FAA action. Consequently, people who lived north of the prior flight paths now, suddenly and without warning, found themselves within the deafening noise contours of Runway 28. FAA knew this and did **nothing**. The Federal Statutes require more.

In addition to MAA, the Roundtable also specifically asked FAA to return to compliance with the NCP because residential areas were being impacted by planes flying below 3000 feet, “placing these places within the DNL 65 dB noise contour.” JA 1437. The Roundtable asked for “a specific justification as to why the flight paths as currently implemented do not create a significant impact for these properties.” *Id.* Ms. Ray, of FAA, agreed to respond, but she never did. *Id.*

Despite 14 CFR 150.35(d), FAA’s decision to abandon the NCP and move the noise contours has never been publicly announced, but was a decision that should have been subject to reviews under the Federal Statutes. Instead of complying with

the law, FAA decided to take no action when confronted by MAA and the Roundtable.

By failing to act, FAA decided to impose significant noise impacts on human beings, without any environmental review, much less the environmental impact statement that was required, FAA acted arbitrarily and capriciously. This Court should conclude that FAA's action in imposing significant impacts and then doing nothing about them was arbitrary and capricious, and violated the Federal Statutes, and the Court should order that FAA immediately comply with the NCP.

5. FAA's Decision to Eliminate the Use of Vectoring as a Primary Means of Air Traffic Control at BWI was Arbitrary and Capricious and Violated the Rulemaking Provisions of the APA.

FAA's decision making on the use of vectoring for departures from Runway 28 demonstrates FAA's disregard of the Federal Statutes and is indicative of the bait and switch tactics FAA used in dealing with the public. Once again, FAA proffered a means to redress the harms it had caused and then, announced that it would not use the very means it had identified. JA 1645, 1651; JA 2011. There is no record of how or when FAA arrived at its decision to eliminate the use of vectoring at BWI. Nor did FAA offer any explanation. Because there is no evidence that FAA conducted any of the reviews required by the Federal Statutes and because FAA did not follow the rulemaking procedures of the APA, the decision to no longer use vectoring should be vacated.

A. FAA's Final Order to Eliminate Vectoring for Departures from Runway 28 was Arbitrary and Capricious.

Nowhere in the DC EA does FAA identify that it will eliminate the use of vectoring for departures at BWI. Such a decision would have been contrary to existing policy because FAA departure procedure manuals expressly allow vectoring. JA 1055. FAA's failure to conduct *any* reviews of its decision to no longer use vectoring is arbitrary and not in accord with the law.

The decision is a major federal action that FAA knew would have significant impacts because FAA had been telling the public for months that vectoring would solve the problems FAA had caused. After FAA implemented the new flight paths that abandoned the NCP, MAA, members of Congress, and State and local government asked FAA to return to the NCP. FAA responded by promising that it would address their concerns by using vectoring. In July 2017, FAA said it could use vectoring to provide "almost a re-creation" of the flight paths that had previously existed. JA 1763. Again, in September 2017, FAA identified vectoring Runway 28 departures as a solution to the harms caused by TERPZ6. JA 1814. Vectoring was also discussed at the November 2017 Roundtable meeting. JA 1823.

Then, suddenly and without notice, FAA announced in April 2018 that it would not "return to vectoring as a primary means of air traffic control." JA 2011. FAA did not reference any investigation or consideration of the matter, nor did FAA offer any explanation for its decision. Not only that, FAA could not even answer

basic questions about its decision making, including: when it made its decision, whether its decision was addressed in the DC EA, or, on what environmental grounds the decision was based. JA 2097, 2100.

Adding to the confusion, FAA stated, in complete contradiction to concurrent spoken and written statements, that vectoring *could* be used “at any time.” JA 2103. Nothing could be more arbitrary and capricious than FAA’s inconsistent statements.

Throughout this time, FAA generated confusion about whether a “waiver” was required to use vectoring, to the one point FAA apologized for this confusion. JA 1763-1764, 1766; JA 1782; and JA 1814-1815. It is clear that the confusion was caused by FAA making uninformed decisions, outside public view, without conducting the processes required by federal law -- processes designed to support informed decision making. *See North Carolina Wildlife Fed’n*, 677 F.3d at 601. The confusion, lack of explanation, and lack of reviews under the Federal Statutes mean that the FAA’s decision to eliminate vectoring was arbitrary and capricious and should be vacated.

B. FAA’s Decision to Eliminate the Use of Vectoring as a Primary Means of Air Traffic Control at BWI Violated the APA.

FAA’s decision to eliminate the use of vectoring at BWI is rulemaking subject to the APA. Although FAA continued to equivocate on whether it would use vectoring to address the harms it caused, its written declaration on April 24, 2018, that it would not return to vectoring qualifies as a final decision. JA 2011; *see also*,

City of Alexandria, 728 F.2d at 646. The statement is “couched in terms of command.” *Am. Bus Ass’n v. United States*, 627 F.2d 525, 532 (D.C. Cir. 1980). Thus, the statement’s “likely effect” is not to simply limit administrative discretion regarding vectoring, “but to abolish it.” *Id.*

In addition to FAA’s decision being arbitrary and capricious, it also violates the APA because there was no notice or publication as required by 5 U.S.C. §§ 552 and 553. FAA’s decision to eliminate vectoring is not lawful. *Chrysler Corp.*, 441 U.S. at 316. Because FAA failed to comply with the notice requirements of the APA, and otherwise acted arbitrarily, its decision to not return to vectoring should be vacated.

6. FAA’s Final Order to Implement TERPZ6 was Arbitrary and Capricious and Violated the APA.

FAA’s final order to implement the TERPZ6 departure procedure was arbitrary and capricious because FAA failed to conduct any of the reviews required by the Federal Statutes and failed to notify local citizens and community leaders of the new flight procedures before they went into effect as required by APA § 553. *City of Phoenix*, 869 F.3d at 972. The order violated the APA because it was rulemaking; as a result, FAA needed to comply with the notice and publication provisions of the APA. *Chrysler Corp.*, 441 U.S. at 316; *City of Alexandria*, 728 F.2d at 646.

A. TERPZ4, TERPZ5, and TERPZ6.

The DC EA addressed “41 flight procedures.” JA 325-328; *see also Citizen Ass’ns of Georgetown v. FAA*, 896 F.3d 425, 429 (D.C. Cir. 2018). Of these, 10 were at BWI, including TERPZ4. JA 328. The TERPZ4 departure procedure was implemented on March 5, 2015 and maintained the existing natural heading of Runway 28 at 285°. JA 504, 516. Neither TERPZ5 nor TERPZ6 were mentioned in the DC EA.

On April 30, 2015, TERPZ5 was implemented. JA 528. TERPZ5 maintained the existing 285° heading for departures from Runway 28. There is no evidence in the record that any of the reviews required under the Federal Statutes were conducted for TERPZ5. Nor was the procedure published in the Federal Register, and no other notice was provided to the community.

On February 4, 2016, months *after* MAA notified FAA on October 22, 2015 that the new flight procedures had violated the NCP and months after members of Congress wrote to FAA on November 13, 2015 about FAA’s failure to comply with the NCP, FAA decided, without any notice, to implement TERPZ6. Remarkably, rather than address FAA’s unannounced abandonment of the NCP, TERPZ6 *expanded* the deviation from the NCP by pushing flights farther north, away from the existing NCP, and into residential areas that had not historically experienced air

traffic. The heading from Runway 28 was changed from 285° to 298°. ¹⁷ JA 1195, 1196. Not only was this arbitrary and capricious, it was also a violation of the APA.

During FAA presentations to the Roundtable, FAA misleadingly characterized the shift from 285° to 298° as only a 10° change, when it is clearly a 13° change. JA 1762. FAA also confused the issue by stating that the heading was still 285°. Mr. Owens stated that FAA's "goal is to create randomness from the 285 heading." JA 1764. But TERPZ6 had changed this heading to 298°, as such, the 285° heading no longer existed. The significant change in the flight path can be seen in FAA's July 2017 presentation to the Roundtable, which shows the old 285° flight track compared to the new TERPZ6 flight track. JA 1726.

MAA's April 25, 2016, letter to FAA explained that the TERPZ6 procedure did not "respect" the NCP and was not addressed in the DC EA. JA 1199-1200. FAA's response was to ignore MAA for months. When it did finally respond, FAA provided no explanation for its action and offered inconsistent answers whether it would comply with the NCP.

B. TERPZ6 Was Not Reviewed as Required by the Federal Statutes.

FAA's decision to implement TERPZ6 without the reviews required by the Federal Statutes was arbitrary and capricious and should be vacated. FAA

¹⁷ As JA 1196 shows, a heading of 285 would be straight off Runway 28, but TERPZ6 changed this to 298.

regulations require new flight procedures to be subject to an environmental assessment, but the FAA failed to perform one for TERPZ5 or TERPZ6. FAA Order 1050.1F § 3.1.2. Nor did the FAA provide any other public notice under the APA.

Now, for the first time, FAA has submitted a document with the administrative record that purports to be a “categorical exclusion”¹⁸ (“CATEX”) from NEPA, JA 989, but the CATEX is not sufficient for several reasons. First, the CATEX could not be used for TERPZ6 because TERPZ6 involved changes below 3,000 feet that caused air traffic to be routinely routed over noise sensitive areas. FAA regulations stipulate that a CATEX may not be used for such changes. FAA Order 1050.1F § 5-6.5(i).

Secondly, a CATEX may only be used for actions that do not have a significant effect on the human environment. FAA Order 1050.1F § 3-1.3. But here, both MAA and members of Congress have communicated to FAA that its changes undisputedly caused significant impacts. Moreover, even if FAA finds there are no significant impacts, if “extraordinary circumstances exist, an EA or EIS must be prepared.” FAA Order 1050.1F § 5-2. Given FAA’s abandonment of the NCP and the ongoing public turmoil, resulting in FAA requiring the Roundtable be formed, there are clearly “extraordinary circumstances” that undermine FAA’s attempt to use

¹⁸ A CATEX is not an exemption from NEPA review, but is a level of NEPA review. FAA Order 1050.1F at 3-1.1.

a CATEX. FAA's own regulations state that "extraordinary circumstances" exist where there is a "disruption of an established community, or . . . of orderly, planned development, or an inconsistency with plans or goals that have been adopted by the community in which the project is located." FAA Order 1050.1F § 5-2(b)(5); *City of Phoenix*, 869 F.3d at 972-973 (rejecting as arbitrary and capricious FAA's claims that new routes were not "highly controversial" and that no "extraordinary circumstances" existed where FAA changed routes that had been in place for a long time and that the City had relied on in setting its zoning policy). The abandonment of the NCP, the NAP, and the ANZ clearly meets this standard. The regulations also identify numerous other circumstances, all present here, where "extraordinary circumstances" exist. These include impacts on noise sensitive areas, actions that are "highly controversial" – in other words, a substantial dispute like the one between MAA and FAA – and actions that create the likelihood of inconsistency between FAA actions and State or local laws relating to the environment. *Id.*

Third, the CATEX does not comply with the National Defense Authorization Act of 2017 § 341(b)(4)(B), which requires consultation with the airport operator.

Finally, a CATEX must document compliance with special purpose laws, like the Federal Statutes. The CATEX presented by the FAA in the Administrative Record fails to do that. *See* Order 1050.1F §§ 2-3.2, 3(d), 5-3(d).

C. FAA Violated the APA in Implementing TERPZ6.

In addition to failing to conduct the necessary reviews under the Federal Statutes, FAA also failed to comply with the APA's notice and publication procedures in implementing TERPZ6. The FAA's decision to implement TERPZ6 constitutes rulemaking under the APA because it was a final order that established a definitive statement of the agency's position and had an immediate effect on aircraft operations. The Fourth Circuit has held that an FAA order implementing flight path changes "falls within the definition of a rule" subject to the APA. *City of Alexandria*, 728 F.2d at 647.

In *City of Alexandria*, this Court considered whether a 90-day test of possible flight path procedures that had been subject to an environmental assessment constituted rulemaking under the APA. *Id.* at 645. In that case, as here, the local government alleged, among other things, that FAA had failed to comply with notice procedures of the APA. Rejecting FAA arguments that the flight path changes were not "rules" under the APA, the Court held that the flight path changes were rules, but that because the changes would only be in place for 90-days and "only authorized a temporary change in the FAA's regulation of airline flight patterns," without "lasting effect," they did not have a "substantive" impact." *Id.* at 648. Accordingly, they were exempt from the APA notice requirements. *Id.*

This case is quite different. As an initial matter, FAA failed to conduct any environmental assessment before implementing TERPZ6. More importantly, TERPZ6, unlike the 90-day test flights in *City of Alexandria*, was not a temporary change. Thus, it had a “substantive” impact, which triggers the APA’s mandatory notice requirements.

FAA practice is to perform environmental and other reviews of flight procedure changes. It did this for TERPZ4 and other changes in the DC EA. It may not now change its practice without rational explanation. *State Farm*, 463 U.S. at 43; *Kemphorne*, 473 F.3d at 102. The failure to comply with APA means that TERPZ6 must be vacated and flight procedure changes returned to those that have been enacted in compliance with the law.

CONCLUSION

For the reasons stated herein, this Court should find that each of the challenged orders is arbitrary and capricious, or not in accord with the law and in violation of the APA. The orders should be vacated and FAA should be ordered to return to pre-2015 flight paths and procedure until it has complied with the Federal Statutes and the APA.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 2019, the foregoing Opening Brief of Petitioner Howard County, Maryland was filed electronically using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/

Lewis J. Taylor
Senior Assistant County Solicitor

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 18-2360 Caption: Howard County, MD v. Federal Aviation Administration

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Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

Type-Volume Limit for Briefs: Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

Type-Volume Limit for Other Documents if Produced Using a Computer: Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

Typeface and Type Style Requirements: A proportionally spaced typeface (such as Times New Roman) must include serifs and must be 14-point or larger. A monospaced typeface (such as Courier New) must be 12-point or larger (at least 10½ characters per inch). Fed. R. App. P. 32(a)(5), 32(a)(6).

This brief or other document complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. R. 32(f) (cover page, disclosure statement, table of contents, table of citations, statement regarding oral argument, signature block, certificates of counsel, addendum, attachments):

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(s) Lewis J. Taylor

Party Name Howard County, Maryland

Dated: July 30, 2019

ADDENDUM

KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Limitation Recognized by *Miccosukee Tribe of Indians of Florida v. U.S. Army Corps of Engineers*, 11th Cir.(Fla.), Sep. 15, 2010

KeyCite Yellow Flag - Negative Treatment Proposed Legislation

United States Code Annotated
Title 42. The Public Health and Welfare
Chapter 55. National Environmental Policy (Refs & Annos)
Subchapter I. Policies and Goals (Refs & Annos)

42 U.S.C.A. § 4332

§ 4332. Cooperation of agencies; reports; availability of information;
recommendations; international and national coordination of efforts

Currentness

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall--

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.¹

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

CREDIT(S)

(Pub.L. 91-190, Title I, § 102, Jan. 1, 1970, 83 Stat. 853; Pub.L. 94-83, Aug. 9, 1975, 89 Stat. 424.)

Footnotes

1 So in original. The period probably should be a semicolon.

42 U.S.C.A. § 4332, 42 USCA § 4332

Current through P.L. 116-5. Title 26 current through 116-9.

End of Document

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 49. Transportation (Refs & Annos)
Subtitle VII. Aviation Programs
Part B. Airport Development and Noise
Chapter 475. Noise (Refs & Annos)
Subchapter I. Noise Abatement

49 U.S.C.A. § 47504

§ 47504. Noise compatibility programs

Effective: August 13, 2018

Currentness

(a) Submissions.--(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after--

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include--

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) Approvals.--(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program--

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.

(c) Grants.--(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to--

(A) an airport operator submitting the program; and

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project.

(2) Soundproofing and acquisition of certain residential buildings and properties.--The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title--

(A) for projects to soundproof residential buildings--

(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport--

(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter;

(C) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program;

(D) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise;

(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations; and

(F) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) to carry out a project to mitigate noise, if the project--

(i) consists of--

(I) replacement windows, doors, and the installation of through-the-wall air conditioning units; or

(II) a contribution of the equivalent costs to be used for reconstruction if reconstruction is the preferred local solution;

(ii) is located at a school near the airport; and

(iii) is included in a memorandum of agreement entered into before September 30, 2002, even if the airport has not met the requirements of part 150 of title 14, Code of Federal Regulations, and only if the financial limitations of the memorandum are applied.

(3) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(4) The Government's share of a project for which a grant is made under this subsection is the greater of--

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(5) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except--

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(6) **Aircraft noise primarily caused by military aircraft.**--The Secretary may make a grant under this subsection for a project even if the purpose of the project is to mitigate the effect of noise primarily caused by military aircraft at an airport.

(d) **Government relief from liability.**--The Government is not liable for damages from aviation noise because of action taken under this section.

(e) **Grants for assessment of flight procedures.**--

(I) **In general.**--In accordance with subsection (c)(1), the Secretary may make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(2) **Additional staff.**--The Administrator may accept funds from an airport operator, including funds provided to the operator under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with proposals to implement flight procedures at such airport that have been approved as part of an airport noise compatibility program under subsection (b).

(3) **Receipts credited as offsetting collections.**--Notwithstanding section 3302 of title 31, any funds accepted under this section--

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(B) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(C) shall remain available until expended.

(f) **Determination of fair market value of residential properties.**--In approving a project to acquire residential real property using financial assistance made available under this section or chapter 471, the Secretary shall ensure that the appraisal of the property to be acquired disregards any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

CREDIT(S)

(Pub.L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1285; Pub.L. 103-305, Title I, § 119, Aug. 23, 1994, 108 Stat. 1580; Pub.L. 103-429, § 6(71), Oct. 31, 1994, 108 Stat. 4387; Pub.L. 106-181, Title I, § 154, Apr. 5, 2000, 114 Stat. 88; Pub.L. 108-176, Title I, § 189, Title III, § 306, Dec. 12, 2003, 117 Stat. 2519, 2539; Pub.L. 112-95, Title V, §§ 504, 505, Feb. 14, 2012, 126 Stat. 104; Pub.L. 115-232, Div. A, Title X, § 1044, Aug. 13, 2018, 132 Stat. 1958.)

49 U.S.C.A. § 47504, 49 USCA § 47504

Current through P.L. 116-5. Title 26 current through 116-9.

of title 32, Code of Federal Regulations, as in effect on January 6, 2014.

“(2) UNACCEPTABLE RISK TO THE NATIONAL SECURITY OF THE UNITED STATES.—The term ‘unacceptable risk to the national security of the United States’ has the meaning given the term in section 211.3 of title 32, Code of Federal Regulations, as in effect on January 6, 2014.”

(4) CONFORMING AMENDMENTS.—

(A) SECTION HEADING.—Section 44718 of title 49, United States Code, is amended in the section heading by inserting “or national security” after “air commerce”.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 447 of title 49, United States Code, is amended by striking the item relating to section 44718 and inserting the following:

49 USC 44701
prec.

“44718. Structures interfering with air commerce or national security.”

(b) PERFORMANCE-BASED NAVIGATION.—Section 213(c) of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 40101 note) is amended by adding at the end the following:

“(3) NOTIFICATIONS AND CONSULTATIONS.—Not later than 90 days before applying a categorical exclusion under this subsection to a new procedure at an OEP airport, the Administrator shall—

“(A) notify and consult with the operator of the airport at which the procedure would be implemented; and

“(B) consider consultations or other engagement with the community in the which the airport is located to inform the public of the procedure.

“(4) REVIEW OF CERTAIN CATEGORICAL EXCLUSIONS.—

“(A) IN GENERAL.—The Administrator shall review any decision of the Administrator made on or after February 14, 2012, and before the date of the enactment of this paragraph to grant a categorical exclusion under this subsection with respect to a procedure to be implemented at an OEP airport that was a material change from procedures previously in effect at the airport to determine if the implementation of the procedure had a significant effect on the human environment in the community in which the airport is located.

“(B) CONTENT OF REVIEW.—If, in conducting a review under subparagraph (A) with respect to a procedure implemented at an OEP airport, the Administrator, in consultation with the operator of the airport, determines that implementing the procedure had a significant effect on the human environment in the community in which the airport is located, the Administrator shall—

“(i) consult with the operator of the airport to identify measures to mitigate the effect of the procedure on the human environment; and

“(ii) in conducting such consultations, consider the use of alternative flight paths that do not substantially degrade the efficiencies achieved by the implementation of the procedure being reviewed.

“(C) HUMAN ENVIRONMENT DEFINED.—In this paragraph, the term ‘human environment’ has the meaning given such term in section 1508.14 of title 40, Code of Federal Regulations (as in effect on the day before the date of the enactment of this paragraph).”

SEC. 342. CONTRACT WORKING DOGS.

(a) **REQUIRED CONTRACT CLAUSE.**—

(1) **IN GENERAL.**—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2410r.

“§ 2410r. Contract working dogs: requirement to transfer animals to 341st Training Squadron after service life

“(a) **IN GENERAL.**—Each contract entered into by the Secretary of Defense for the provision of a contract working dog shall require that the dog be transferred to the 341st Training Squadron after the service life of the dog has terminated as described in subsection (b) for reclassification as a military animal and placement for adoption in accordance with section 2583 of this title.

“(b) **SERVICE LIFE.**—The service life of a contract working dog has terminated and the dog is available for transfer to the 341st Training Squadron pursuant to a contract under subsection (a) only if the contracting officer concerned has determined that—

“(1) the final contractual obligation of the dog preceding such transfer is with the Department of Defense; and

“(2) the dog cannot be used by another department or agency of the Federal Government due to age, injury, or performance.

“(c) **CONTRACT WORKING DOG.**—In this section, the term ‘contract working dog’ means a dog—

“(1) that performs a service for the Department of Defense pursuant to a contract; and

“(2) that is trained and kenneled by an entity that provides such a dog pursuant to such a contract.”

10 USC 2381
prec.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2410r. Contract working dogs: requirement to transfer animals to 341st Training Squadron after service life.”

(b) **INCLUSION IN DEFINITION OF MILITARY ANIMAL.**—Paragraph (1) of section 2583(h) of title 10, United States Code, is amended to read as follows:

“(1) A military working dog, which may include a contract working dog (as such term is defined in section 2410r) that has been transferred to the 341st Training Squadron.”

10 USC 2701
note.

SEC. 343. PLAN, FUNDING DOCUMENTS, AND MANAGEMENT REVIEW RELATING TO EXPLOSIVE ORDNANCE DISPOSAL.

(a) **PLAN REQUIRED.**—

(1) **IN GENERAL.**—The Secretary of Defense shall develop a plan to establish an explosive ordnance disposal program in the Department of Defense to ensure close and continuous coordination among the military departments on matters relating to explosive ordnance disposal.

(2) **ROLES, RESPONSIBILITIES, AND AUTHORITIES.**—The plan under paragraph (1) shall include provisions under which—

Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter I. Airports
Part 150. Airport Noise Compatibility Planning (Refs & Annos)
Subpart A. General Provisions

14 C.F.R. § 150.1

§ 150.1 Scope and purpose.

Currentness

This part prescribes the procedures, standards, and methodology governing the development, submission, and review of airport noise exposure maps and airport noise compatibility programs, including the process for evaluating and approving or disapproving those programs. It prescribes single systems for-- (a) measuring noise at airports and surrounding areas that generally provides a highly reliable relationship between projected noise exposure and surveyed reaction of people to noise; and (b) determining exposure of individuals to noise that results from the operations of an airport. This part also identifies those land uses which are normally compatible with various levels of exposure to noise by individuals. It provides technical assistance to airport operators, in conjunction with other local, State, and Federal authorities, to prepare and execute appropriate noise compatibility planning and implementation programs.

AUTHORITY: 49 U.S.C. 106(g), 40113, 44715, 47101, 47501-47504.

Notes of Decisions (4)

Current through March 22, 2019; 84 FR 10720.

End of Document

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Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter I. Airports
Part 150. Airport Noise Compatibility Planning (Refs & Annos)
Subpart A. General Provisions

14 C.F.R. § 150.7

§ 150.7 Definitions.

Currentness

As used in this part, unless the context requires otherwise, the following terms have the following meanings.

Airport means any public use airport, including heliports, as defined by the ASNA Act, including: (a) Any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned; (b) any privately owned reliever airport; and (c) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

Airport noise compatibility program and program mean that program, and all revisions thereto, reflected in documents (and revised documents) developed in accordance with appendix B of this part, including the measures proposed or taken by the airport operator to reduce existing noncompatible land uses and to prevent the introduction of additional noncompatible land uses within the area.

Airport Operator means, the operator of an airport as defined in the ASNA Act.

ASNA Act means 49 U.S.C. 47501 et seq.

Average sound level means the level, in decibels, of the mean-square, A-weighted sound pressure during a specified period, with reference to the square of the standard reference sound pressure of 20 micropascals.

Compatible land use means the use of land that is identified under this part as normally compatible with the outdoor noise environment (or an adequately attenuated noise level reduction for any indoor activities involved) at the location because the yearly day-night average sound level is at or below that identified for that or similar use under appendix A (Table 1) of this part.

Day-night average sound level (DNL) means the 24-hour average sound level, in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between midnight and 7 a.m., and between 10 p.m., and midnight, local time. The symbol for DNL is L_{dn} .

Noise exposure map means a scaled, geographic depiction of an airport, its noise contours, and surrounding area developed in accordance with section A150.1 of Appendix A of this part, including the accompanying documentation setting forth the required descriptions of forecast aircraft operations at that airport during the fifth calendar year (or later) beginning after submission of the map, together with the ways, if any, those operations will affect the map (including noise contours and the forecast land uses).

Noise level reduction (NLR) means the amount of noise level reduction in decibels achieved through incorporation of noise attenuation (between outdoor and indoor levels) in the design and construction of a structure.

Noncompatible land use means the use of land that is identified under this part as normally not compatible with the outdoor noise environment (or an adequately attenuated noise reduction level for the indoor activities involved at the location) because the yearly day-night average sound level is above that identified for that or similar use under appendix A (Table 1) of this part.

Regional Airports Division Manager means the Airports Division Manager having responsibility for the geographic area in which the airport in question is located.

Restriction affecting flight procedures means any requirement, limitation, or other action affecting the operation of aircraft, in the air or on the ground.

Sound exposure level means the level, in decibels, of the time integral of squared A-weighted sound pressure during a specified period or event, with reference to the square of the standard reference sound pressure of 20 micropascals and a duration of one second.

Yearly day-night average sound level (YDNL) means the 365-day average, in decibels, day-night average sound level. The symbol for YDNL is also L_{dn} .

Credits

[Amdt. 150-1, 53 FR 8724, March 16, 1988; 53 FR 9726, March 24, 1988; Amdt. 150-2, 54 FR 39295, Sept. 25, 1989; Amdt. 150-4, 69 FR 57625, Sept. 24, 2004]

AUTHORITY: 49 U.S.C. 106(g), 40113, 44715, 47101, 47501-47504.

Current through July 26, 2019; 84 FR 36431.

Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter I. Airports
Part 150. Airport Noise Compatibility Planning (Refs & Annos)
Subpart C. Evaluations and Determinations of Effects of Noise Compatibility Programs

14 C.F.R. § 150.35

§ 150.35 Determinations; publications; effectivity.

Currentness

(a) The FAA issues a determination approving or disapproving each airport noise compatibility program (and revised program). Portions of a program may be individually approved or disapproved. No conditional approvals will be issued. A determination on a program acceptable under this part is issued within 180 days after the program is received under § 150.23 of this part or it may be considered approved, except that this time period may be exceeded for any portion of a program relating to the use of flight procedures for noise control purposes. A determination on portions of a program covered by the exceptions to the 180-day review period for approval will be issued within a reasonable time after receipt of the program. Determinations relating to the use of any flight procedure for noise control purposes may be issued either in connection with the determination on other portions of the program or separately. Except as provided by this paragraph, no approval of any noise compatibility program, or any portion of a program, may be implied in the absence of the FAA's express approval.

(b) The Administrator approves programs under this part, if--

(1) It is found that the program measures to be implemented would not create an undue burden on interstate or foreign commerce (including any unjust discrimination) and are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and of preventing the introduction of additional noncompatible land uses;

(2) The program provides for revision if made necessary by the revision of the noise map; and

(3) Those aspects of programs relating to the use of flight procedures for noise control can be implemented within the period covered by the program and without--

(i) Reducing the level of aviation safety provided;

(ii) Derogating the requisite level of protection for aircraft, their occupants and persons and property on the ground;

(iii) Adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems; or

(iv) Adversely affecting any other powers and responsibilities of the Administrator prescribed by law or any other program, standard, or requirement established in accordance with law.

(c) When a determination is issued, the Regional Airports Division Manager notifies the airport operator and publishes a notice of approval or disapproval in the Federal Register identifying the nature and extent of the determination.

(d) Approvals issued under this part for a program or portion thereof become effective as specified therein and may be withdrawn when one of the following occurs:

(1) The program or portion thereof is required to be revised under this part or under its own terms, and is not so revised;

(2) If a revision has been submitted for approval, a determination is issued on the revised program or portion thereof, that is inconsistent with the prior approval.

(3) A term or condition of the program, or portion thereof, or its approval is violated by the responsible government body.

(4) A flight procedure or other FAA action upon which the approved program or portion thereof is dependent is subsequently disapproved, significantly altered, or rescinded by the FAA.

(5) The airport operator requests rescission of the approval.

(6) Impacts on flight procedures, air traffic management, or air commerce occur which could not be foreseen at the time of approval.

A determination may be sooner rescinded or modified for cause with at least 30 days written notice to the airport operator of the FAA's intention to rescind or modify the determination for the reasons stated in the notice. The airport operator may, during the 30-day period, submit to the Regional Airports Division Manager for consideration any reasons and circumstances why the determination should not be rescinded or modified on the basis stated in the notice of intent. Thereafter, the FAA either rescinds or modifies the determination consistent with the notice or withdraws the notice of intent and terminates the action.

(e) Determinations may contain conditions which must be satisfied prior to implementation of any portion of the program relating to flight procedures affecting airport or aircraft operations.

(f) Noise exposure maps for current and forecast year map conditions that are submitted and approved with noise compatibility programs are considered to be the new FAA accepted noise exposure maps for purposes of part 150.

Credits

[Amdt. 150-2, 54 FR 39295, Sept. 25, 1989; Amdt. 150-4, 69 FR 57626, Sept. 24, 2004]

AUTHORITY: 49 U.S.C. 106(g), 40113, 44715, 47101, 47501-47504.

Notes of Decisions (5)

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Code of Federal Regulations
Title 36. Parks, Forests, and Public Property
Chapter VIII. Advisory Council on Historic Preservation
Part 800. Protection of Historic Properties (Refs & Annos)
Subpart B. The Section 106 Process

36 C.F.R. § 800.5

§ 800.5 Assessment of adverse effects.

Currentness

(a) Apply criteria of adverse effect. In consultation with the SHPO/THPO and any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to identified historic properties, the agency official shall apply the criteria of adverse effect to historic properties within the area of potential effects. The agency official shall consider any views concerning such effects which have been provided by consulting parties and the public.

(1) Criteria of adverse effect. An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

(2) Examples of adverse effects. Adverse effects on historic properties include, but are not limited to:

(i) Physical destruction of or damage to all or part of the property;

(ii) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, that is not consistent with the Secretary's standards for the treatment of historic properties (36 CFR part 68) and applicable guidelines;

(iii) Removal of the property from its historic location;

(iv) Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance;

(v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features;

(vi) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization; and

(vii) Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

(3) Phased application of criteria. Where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted, the agency official may use a phased process in applying the criteria of adverse effect consistent with phased identification and evaluation efforts conducted pursuant to § 800.4(b)(2).

(b) Finding of no adverse effect. The agency official, in consultation with the SHPO/THPO, may propose a finding of no adverse effect when the undertaking's effects do not meet the criteria of paragraph (a)(1) of this section or the undertaking is modified or conditions are imposed, such as the subsequent review of plans for rehabilitation by the SHPO/THPO to ensure consistency with the Secretary's standards for the treatment of historic properties (36 CFR part 68) and applicable guidelines, to avoid adverse effects.

(c) Consulting party review. If the agency official proposes a finding of no adverse effect, the agency official shall notify all consulting parties of the finding and provide them with the documentation specified in § 800.11(e). The SHPO/THPO shall have 30 days from receipt to review the finding.

(1) Agreement with, or no objection to, finding. Unless the Council is reviewing the finding pursuant to paragraph (c)(3) of this section, the agency official may proceed after the close of the 30 day review period if the SHPO/THPO has agreed with the finding or has not provided a response, and no consulting party has objected. The agency official shall then carry out the undertaking in accordance with paragraph (d)(1) of this section.

(2) Disagreement with finding.

(i) If within the 30 day review period the SHPO/THPO or any consulting party notifies the agency official in writing that it disagrees with the finding and specifies the reasons for the disagreement in the notification, the agency official shall either consult with the party to resolve the disagreement, or request the Council to review the finding pursuant to paragraphs (c)(3)(i) and (c)(3)(ii) of this section. The agency official shall include with such request the documentation specified in § 800.11(e). The agency official shall also concurrently notify all consulting parties that such a submission has been made and make the submission documentation available to the public.

(ii) If within the 30 day review period the Council provides the agency official and, if the Council determines the issue warrants it, the head of the agency, with a written opinion objecting to the finding, the agency shall then proceed according to paragraph (c)(3)(ii) of this section. A Council decision to provide its opinion to the head of an agency shall be guided by the criteria in appendix A to this part.

(iii) The agency official should seek the concurrence of any Indian tribe or Native Hawaiian organization that has made known to the agency official that it attaches religious and cultural significance to a historic property subject to the finding. If such Indian tribe or Native Hawaiian organization disagrees with the finding, it may within the 30

day review period specify the reasons for disagreeing with the finding and request the Council to review and object to the finding pursuant to paragraph (c)(2)(ii) of this section.

(3) Council review of findings.

(i) When a finding is submitted to the Council pursuant to paragraph (c)(2)(i) of this section, the Council shall review the finding and provide the agency official and, if the Council determines the issue warrants it, the head of the agency with its opinion as to whether the adverse effect criteria have been correctly applied. A Council decision to provide its opinion to the head of an agency shall be guided by the criteria in appendix A to this part. The Council will provide its opinion within 15 days of receiving the documented finding from the agency official. The Council at its discretion may extend that time period for 15 days, in which case it shall notify the agency of such extension prior to the end of the initial 15 day period. If the Council does not respond within the applicable time period, the agency official's responsibilities under section 106 are fulfilled.

(ii)(A) The person to whom the Council addresses its opinion (the agency official or the head of the agency) shall take into account the Council's opinion in reaching a final decision on the finding.

(B) The person to whom the Council addresses its opinion (the agency official or the head of the agency) shall prepare a summary of the decision that contains the rationale for the decision and evidence of consideration of the Council's opinion, and provide it to the Council, the SHPO/THPO, and the consulting parties. The head of the agency may delegate his or her duties under this paragraph to the agency's senior policy official. If the agency official's initial finding will be revised, the agency official shall proceed in accordance with the revised finding. If the final decision of the agency is to affirm the initial finding of no adverse effect, once the summary of the decision has been sent to the Council, the SHPO/THPO, and the consulting parties, the agency official's responsibilities under section 106 are fulfilled.

(C) The Council shall retain a record of agency responses to Council opinions on their findings of no adverse effects. The Council shall make this information available to the public.

(d) Results of assessment—

(1) No adverse effect. The agency official shall maintain a record of the finding and provide information on the finding to the public on request, consistent with the confidentiality provisions of § 800.11(c). Implementation of the undertaking in accordance with the finding as documented fulfills the agency official's responsibilities under section 106 and this part. If the agency official will not conduct the undertaking as proposed in the finding, the agency official shall reopen consultation under paragraph (a) of this section.

(2) Adverse effect. If an adverse effect is found, the agency official shall consult further to resolve the adverse effect pursuant to § 800.6.

Credits

[69 FR 40553, July 6, 2004]

AUTHORITY: 16 U.S.C. 470s.

Notes of Decisions (87)

Current through March 22, 2019; 84 FR 10720.

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Code of Federal Regulations
Title 40. Protection of Environment
Chapter V. Council on Environmental Quality
Part 1506. Other Requirements of NEPA (Refs & Annos)

40 C.F.R. § 1506.2

§ 1506.2 Elimination of duplication with State and local procedures.

Currentness

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

- (1) Joint planning processes.
- (2) Joint environmental research and studies.
- (3) Joint public hearings (except where otherwise provided by statute).
- (4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Notes of Decisions (7)

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Code of Federal Regulations
Title 40. Protection of Environment
Chapter V. Council on Environmental Quality
Part 1508. Terminology and Index (Refs & Annos)

40 C.F.R. § 1508.4

§ 1508.4 Categorical exclusion.

Currentness

Categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Notes of Decisions (165)

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Code of Federal Regulations
Title 40. Protection of Environment
Chapter V. Council on Environmental Quality
Part 1508. Terminology and Index (Refs & Annos)

40 C.F.R. § 1508.7

§ 1508.7 Cumulative impact.

Currentness

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Notes of Decisions (397)

Current through March 22, 2019; 84 FR 10720.

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

HOWARD COUNTY, MARYLAND,

Petitioner,

V.

FEDERAL AVIATION ADMINISTRATION;
DANIEL K. ELWELL, Acting Administrator,
Federal Aviation Administration,

Respondent.

ON APPEAL FROM THE FEDERAL AVIATION ADMINISTRATION

REPLY BRIEF OF PETITIONER

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SUMMARY OF ARGUMENT

This case concerns FAA's responsibility to communicate clearly and fairly with the public. 5 U.S.C. §§ 552, 553; 42 U.S.C. § 4331(a); 54 U.S.C. § 306108; 49 U.S.C. § 303(d)(3)(a); *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979). The FAA may not act arbitrarily, or without notice, when making decisions like those challenged here. Nor may it mislead the public.

Throughout efforts by the public and elected officials to address FAA's failures to comply with the law, FAA provided incorrect and contradictory information. By its own admission, FAA misled the public.¹ Despite evidence that FAA does not refute in any substantive way, FAA continues to make false statements about the cause of noise problems at BWI, denying any responsibility for noise impacts. FAA's claim that other causes "somehow exacerbated the noise" (Answer ("A") at 11) finds no support in the Record, other than FAA's self-serving statements about construction and slight increases in operations. JA 1201-1212; A. at 42. FAA's actions in consolidating and moving air traffic are causing significant noise increases in noise sensitive areas² that previously did not experience noise issues. Principal Brief ("PB") at 20; JA 1487, JA 1399; JA 1726. It is outrageous that FAA

¹ In September 2017, a Senior FAA Official apologized for the "confusion" caused by FAA. PB at 26.

² Noise sensitive areas include residential areas, parks, and historic sites. JA 37 ¶ 11b(8).

continues to assert that the noise impacts do not exist or were caused by actions unrelated to FAA.

But the County need not prove the point. The County need only show there is insufficient evidence in the record that FAA considered “potential” impacts in a genuine and material way. JA 36 ¶ 11b(5). FAA argues that it made no decisions, or that the decisions somehow evade judicial review, but neither the law, nor the Record supports these arguments.

Because FAA failed to notify the public of its actions or carefully review those actions, the Court should order FAA to begin immediate and diligent efforts to return to historic air traffic patterns that are properly reviewed, based on public comment, and which comport with the BWI Noise Compatibility Program (“NCP”).

STATEMENT OF JURISDICTION

I. The Six Decisions Are All Final Orders Subject To Judicial Review.

FAA ignores extensive case law requiring that the term “order” be liberally construed. *See, e.g., Safe Extensions, Inc. v. F.A.A.*, 509 F.3d 593, 595 (D.C. Cir. 2007) (rejecting jurisdictional arguments -- identical to FAA’s here -- as “wholly meritless”); *National Parks and Conservation Ass’n v. F.A.A.*, 998 F.2d 1523, 1527 (10th Cir. 1993). “Order” should be read “expansively,” and “does not constitute a jurisdictional bar” because of its “function in providing for judicial review.” *Avia Dynamics, Inc. v. F.A.A.*, 641 F.3d 515, 519-520 (D.C. Cir. 2011).

Given this expansive definition and the “strong presumption” in favor of judicial review, the six decisions are orders subject to review by this Court. *Dow AgroSciences LLC v. National Marine Fisheries Service*, 637 F.3d 259, 267 (4th Cir. 2011) (quoting *Bowen v. Mich. Acad. of Family Physicians*, 476 U.S. 667, 670 (1986)). They represent the consummation of FAA’s decision-making process, secret though it was, and create legal rights and obligations.

A. The six decisions are orders because FAA pronounced them as such.

FAA’s defense is that it misled the public; that “isolated and out of context” statements cannot be held against it. A. at 1. The statements were not “isolated and out of context;” they were made in the context of public engagement that FAA designed and required and, they were repeated many times. Because it has no reasonable explanation, FAA’s conduct is arbitrary and capricious. *Bedford County Memorial Hosp. v. Health and Human Services*, 769 F.2d 1017, 1022 (4th Cir. 1985).

FAA argues the orders challenged are not final dispositions but it presented them as “definitive statements” that “conclusively settled” the matters. *City of Alexandria v. Helms*, 728 F.2d 643, 646 (4th Cir. 1984). It is unreasonable for FAA to expect not to be held accountable for statements published in the circumstances here. FAA cannot objectively represent to the public that it made a decision and then tell the Court that it did not. This constitutes a post-hoc rationalization that

should be summarily rejected. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 419 (1971).

FAA cannot escape review based on the argument that it offered inconsistent information. PB 26. FAA still cannot get its story straight. It argues both that there was no intent to change flight procedures (which the record clearly disproves) *and* that there was a “good-faith effort to design new procedures.” A. at 20 and 13. Because FAA is unable to reconcile what it told the public with what it is now telling this Court, the decisions should be reversed.

The decisions “alter[ed] the legal regime” by changing flight patterns and rules. *Bennett v. Spear*, 520 U.S. 154, 178 (1997). They were not “tentative” recommendations, or “purely advisory statements.” *Id.* Any notion that they were not binding is frivolous. *Id.*

B. There is no “discretionary” exception that prevents judicial review of FAA’s denial of the Administrative Petition.

It is “rare” that an agency action is so discretionary it will escape review. *Overton Park*, 401 U.S. at 410. The exception is “narrow,” and does not bar this Court’s review of FAA’s denial of the Administrative Petition. *Id.* Arbitrary and capricious agency action “abuses discretion and constitutes an unlawful exercise of discretion.” *Bell Lines, Inc. v. U.S.*, 306 F. Supp. 209, 213 (S.D.W.Va. 1969) *aff’d per curiam*, 397 U.S. 818 (1970).

FAA relies on *Speed Mining, Inc. v. Federal Mine Safety and Health Review Com'n*, 528 F.3d 310, 317 (4th Cir. 2008), but in *Speed Mining* this Court noted the “broad presumption of judicial review,” and only limited it because of a “rare instance” of true agency discretion; whether to take enforcement action. *But see Casa De Maryland v. U.S. Department of Homeland Security*, 924 F.3d 684, 699 (4th Cir. 2019) (holding that an agency’s “broad or general enforcement policy,” is subject to review). The decisions challenged here are far different.

The Federal Statutes and the APA provide relevant standards of review and are not simply “procedural.”³ FAA’s reliance on *Inova Alexandria Hospital v. Shalala*, 244 F.3d 342 (4th Cir. 2001), is unavailing because it concerned a procedural rule in a contested case. *Inova* stands for the proposition that the County is entitled to judicial review. *Id.* at 345.

C. The Petition for Judicial Review is timely.

FAA’s argument that the Court lacks jurisdiction because of timeliness is contradicted by the plain language of 49 U.S.C. § 46110 and case law. Unlike the Clean Air Act statute relied upon by FAA (A. at 32), § 46110 *expressly* gives the Court discretion to extend the 60-day deadline “if there are reasonable grounds.”

³ FAA’s argument that NEPA is a “procedural” statute and therefore FAA’s compliance may not be reviewed is meritless. A. 17. None of the Federal Statutes contains a “discretionary” exception.

Arbaugh v. Y & H Corp., 546 U.S. 500, 502 (2006) (holding that if Congress does not state a limitation is jurisdictional, it is not); *City of Phoenix v. Huerta*, 869 F.3d 963 (D.C. Cir. 2017) (finding reasonable grounds because FAA confused the public).

Courts have found “reasonable grounds” where, as here, an agency makes misrepresentations to the public, *Safe Extensions*, 509 F.3d at 603, or where the agency creates confusion. *Greater Orlando Aviation Auth. v. FAA*, 939 F.2d 954, 960 (11th Cir. 1991) (finding reasonable grounds where FAA’s inconsistent communications caused confusion). Similarly, FAA’s false statements and secret decision making provide reasonable grounds for this action. *Durso v. Napolitano*, 795 F. Supp. 2d 63, 69 (D.D.C. 2011) (“[I]f an order is kept secret, then the sixty-day period will be tolled”).

FAA fails to acknowledge the role it played in creating reasonable grounds. Instead, FAA attacks the County for attempting to avoid litigation, and asserts that by engaging in the process FAA required, the County waived its right to challenge the decisions. This would render meaningless the “reasonable grounds” provision in § 46110.

Here, as in *City of Phoenix*, FAA offered to engage the public to address its failures to comply with the law. The County’s engagement with FAA and FAA’s

proffering of incorrect and contradictory information provide reasonable grounds for judicial review.

II. The APA Requires Notice And Comment For Rules Controlling Navigation In The National Airspace.

The three decisions challenged under the APA are rulemakings because they implement, interpret, and prescribe law or policy. 5 U.S.C. § 551(4); *City of Alexandria v. Helms*, 728 F.2d 643 at 647 (holding that flight path changes are rules because they are statements of “particular applicability designed to implement agency policy”). FAA made significant flight path changes, abandoned an established cooperative federalism program for noise abatement, and then decided it would no longer use vectoring as a primary means of air traffic control. Each of these is a rulemaking that should have been subject to notice and comment but was not. Because this Petition is well within the six-year statute of limitations for the APA, the rules are all subject to review by this Court. *Sierra Club v. U.S. Department of the Interior*, 899 F.3d 260, 267 (4th Cir. 2018).

A. Generally applicable FAA navigational orders are rules subject to the APA.

The County relies squarely on *City of Alexandria* because it holds that decisions controlling navigation are rulemakings. The Court was clear that such a decision, “falls within the definition of a rule.” *Id.* at 647. Because the rules in *City*

of *Alexandria* were temporary, the Court held that an exception applied, but there is no basis for an exception here where the rules are permanent. *Id.* at 644-645.

There is no reason to overturn *City of Alexandria*. FAA navigational rules are “definitive statements” that “conclusively settle” where aircraft must fly under general conditions. *Id.* at 647. They have the force and effect of law because pilots and air traffic controllers (“ATC”) must generally abide by them, and they control the rights of people on the ground.

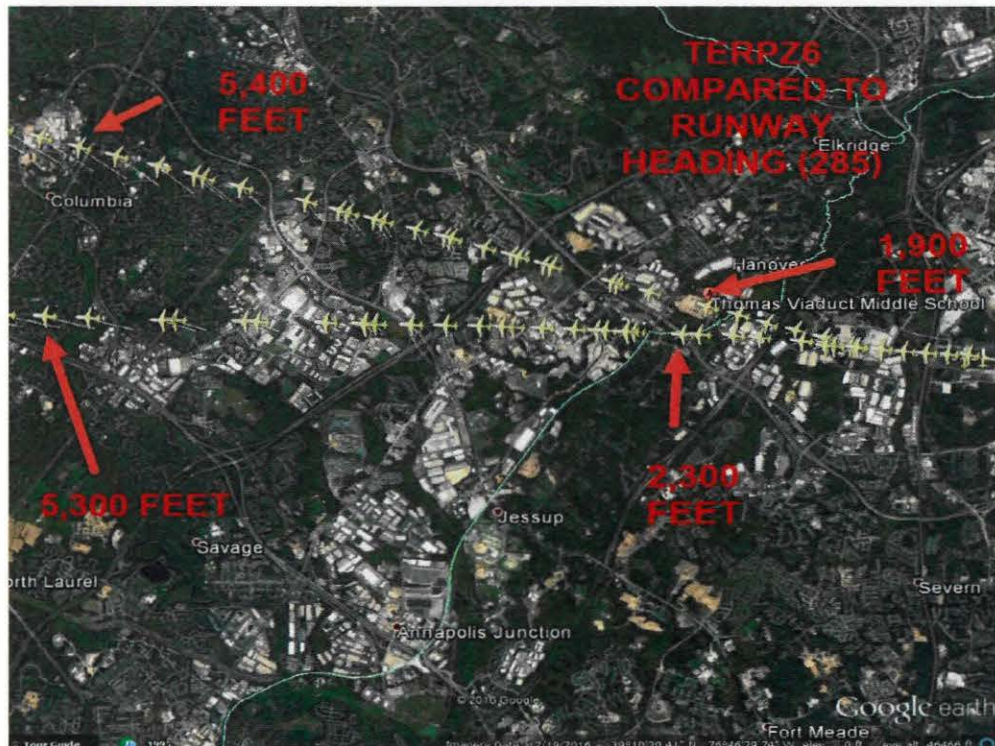
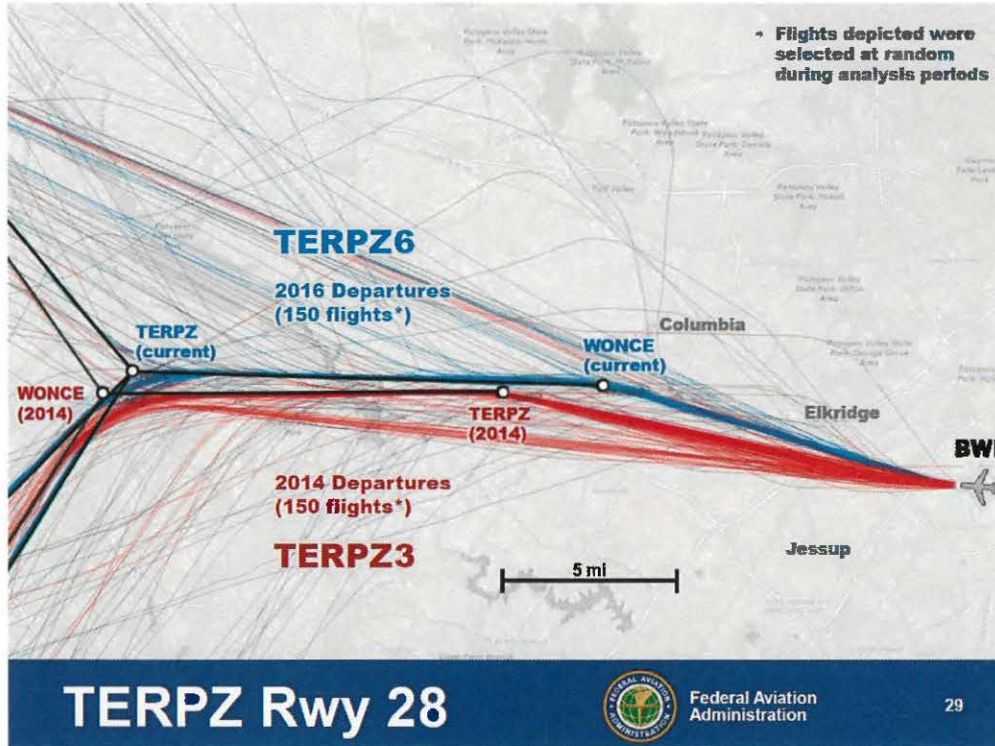
B. TERPZ6 and Air Traffic Control

FAA misleadingly argues that ATC and pilots control air traffic. FAA controls air traffic through the use of procedures prescribed by regulation, which ATC and pilots must follow. A. at 3; 14 CFR § 91.13; *Komjathy v. Nat'l Transp. Safety Bd.*, 832 F.2d 1294 (D.C. Cir. 1987).

Although ATC and pilots have some control of aircraft, this does not negate the legal effect of the standard instrument departure (“SID”) RNAV procedures they must follow. RNAV is an instrument procedure using “area navigation,” meaning navigation by “waypoints,” specific GPS coordinates that establish geographic, not “virtual,” locations.⁴ A. at 5. TERPZ6 is an RNAV procedure with a waypoint called WONCE. JA 2131, JA 2153, JA 2161. When FAA moved WONCE, it

⁴ An RNAV procedure is an “Air Traffic Service (ATS) route.” See 14 CFR 1.1 and 71.1.

required aircraft to take a 13° turn to the north, which deviated from the NCP and imposed impacts on noise sensitive areas. JA 1487; JA 1726.



ATC may only “assign” procedures that FAA publishes. An ATC may give a non-RNAV vector – “vectoring” – telling a pilot to head to a specific point or heading, but this is the exception, not the rule. As explained by Senior FAA Official Bennie Hutto, the dispersion that formerly existed in flight paths was no longer present because “the planes are mainly controlled by computers” and pilots “must stay within a particular area along a center track.” JA 1409, 1410.

TERPZ6 is a rule regardless of whether it is used 100% of the time. A rule still has the “force and effect of law” regardless of a lack of universal “impact.” *Friedrich v. Secretary of Health and Human Services*, 894 F.2d 829 (6th Cir. 1990), held that “the level of impact” is *not* a factor in classifying a rule. *Id.* at 836. A rule does not lose legal effect simply because it is not binding in every instance. *Bennett*, 520 U.S. at 169-170, 177-178 (holding that because a party may be “technically free” to disregard a rule, that does not negate its legal effect).

C. Vectoring

FAA does not dispute the DC EA did not address vectoring. PB at 48. The Record is clear that FAA had either not yet made a decision about vectoring, or the FAA officials were lying when they told the Roundtable that they were studying vectoring to address the harms FAA had caused. Either way, this Court has authority to consider whether the decision to “not return to vectoring as a primary means of

Air Traffic Control” was arbitrary and capricious and violated the APA’s notice and comment requirements.

D. NCP

FAA’s abandonment of the NCP also has the hallmarks of rulemaking. The program is governed by regulations, including a requirement that FAA notify the airport operator if it intends to rescind or modify the NCP. 14 CFR 150.35. FAA did not do that here. The complex, programmatic, and systemic nature of the NCP and its constituent elements establish a program of cooperative federalism that cannot be abandoned without reasonable explanation. PB at 7.

ARGUMENT

FAA made six decisions that failed to comply with the law. When the public and elected officials asked FAA to comply, FAA ignored them, then misled them, and then proffered mechanisms of redress that it later abandoned, ultimately communicating to the public that it had made final decisions to not comply with the law. Consequently, all of the decisions challenged by the County should be reversed.

1. FAA’s Denial Of Any Consideration Of Howard County’s Administrative Petition Is Arbitrary And Capricious.

FAA mischaracterizes the Petition and argues that its denial was “discretionary” and thus unreviewable. A at 16. Both arguments fail.

a. Howard County's Administrative Petition.

FAA admits that “new information revealing a substantive error by the agency in its prior decision may permit the approach Howard County has taken here.” A. at 32. But FAA offers no defense as to why it did not consider the abundant significant new information under this standard.

FAA wrongly describes the Administrative Petition as only requesting “reconsideration” of NEPA. A. at 16. There was no request for reconsideration because the County does not believe there was any NEPA review. Nor was the Petition limited to NEPA, it also made claims under NHPA, Section 4(f) and the APA. JA 2125. FAA's failure to address any of this when it denied the County's Petition was arbitrary and capricious.

FAA claims Howard County identifies no specific violations of NHPA or Section 4(f) but FAA conducted NO reviews for the challenged decisions. It is therefore impossible to cite to “specific” failures of review because there were no reviews! The County referenced the properties that were *required* to be reviewed and identified the necessary details. JA 2130, 2136. FAA also wrongly argues the County did not identify flight procedures in the Administrative Petition but they are clearly identified. JA 2131, 2146, 2162.

The County is not pursuing provincial interests “contrary to the notion of a public roundtable process.” A. 14. FAA, not Howard County, repudiated the

Roundtable process. Contrary to FAA's false assertions, the Petition mirrored the Roundtable's recommendations.⁵

b. FAA May Not “Decline to Respond” to the County’s Administrative Petition.

FAA argues it does not have to comply with the law because the APA “precludes judicial review” of decisions committed to agency discretion by law. A. at 29. Aside from the fact that denial of the Administrative Petition was not “committed to agency discretion by law,” this argument also fails to address review under § 46110.

The denial of a petition like Howard County’s is a rulemaking subject to the APA. In *Sierra Club v. E.P.A.*, 755 F.3d 968, 977 (D.C. Cir. 2014), a petitioner objected that agency action did not comply with notice and comment requirements. Because that “could only be repaired with a new rulemaking and new opportunity for public comment,” the court determined the agency’s denial of an administrative petition was a rulemaking. *Id.* The Administrative Petition sought new rulemaking and “relief from current regulations,” to which FAA was required to respond under

⁵ As stated in the Administrative Petition and Principal Brief, the TERPZ6 procedure is related to departures from both Runway 28 and Runway 15, which heads south but turns north because it is also based on WONCE. JA 2215, 2216; PB at 13. Restoration of historic paths for Runway 28 will also restore paths for Runway 15. JA 1496.

the APA. 49 U.S.C. § 106(f)(3)(A); 14 CFR § 11.61. Because it failed to do so, FAA's decision to reject the Petition was arbitrary and capricious.

Even worse, FAA proffered in circumstances identical to this case that a local government seeking redress should file an administrative petition. *Lyons v. FAA*, 671 Fed. App'x 674 (9th Cir. 2016). FAA argues *Lyons* arose under "different circumstances," but FAA's own characterization of the case refutes that: "The Ninth Circuit asked what recourse a party might have if, after the FAA approved an air-traffic procedure, new facts arose to indicate a flaw in the agency's decision-making process." A. at 32. Those are the exact facts here.

American Road & Trans. Builders Ass'n v. EPA, 588 F.3d 1109, 1112 (D.C. Cir. 2009), also supports the Administrative Petition as "a perfectly valid" method of seeking judicial review. The case considered a Clean Air Act statute with no reasonable grounds provision, but held that even without such a provision, allegations of "substantive infirmities" are judicially reviewable "irrespective of time limits" and "outside of a statutory limitations period." *Id.*

FAA's failure to provide any explanation, much less a reasonable explanation, for rejecting the Administrative Petition, renders the decision arbitrary and it should therefore be reversed.

2. FAA's Decision To Cease Participating In The BWI Community Roundtable Was Arbitrary And Capricious.

FAA's actions in creating the Roundtable, providing it with confusing and misleading information, and then ending engagement with it are arbitrary and subject to review by this court.

a. FAA designated the Roundtable as the administrative process to address public concerns and MAA's request to restore the NCP.

FAA misrepresents its actions in arguing the Roundtable was "voluntarily established by MAA." A.23. The Roundtable was established at the direction of FAA to respond to MAA's request "for the restoration of the Noise Abatement Procedure (NAP)⁶ for BWI Runways (RWYs) 15 Right (R), 33 Left (L), 10, and 28." JA 1331.

On December 12, 2016, the FAA Administrator wrote a letter in response to several Congress members stating:

To address the concerns of the community and MAA's request for a restoration of the BWI NAP, we suggested that the MAA create a Community Roundtable (CR).

JA 1331; PB at 19. The Administrator acknowledged the request that flight paths return to historic areas, and wrote that FAA would consider "returning to previous

⁶ The FAA Administrator uses "Noise Abatement Plan" and "Noise Abatement Procedures" interchangeably, both identified as "NAP." See JA 991-992 and JA 1331-1340. They are not the exact same thing, but both are intrinsic to the NCP.

flight paths if that is a consensus position after getting input from affected communities.” *Id.* (emphasis added). The Administrator required this consensus “before reverting back since there may be communities that object to the old paths.” *Id.*

Thus, far from being a creation of the MAA, FAA created the Roundtable “in line” with existing policy as the *only* way to address public concerns and MAA’s request to restore the NCP, which FAA did not contradict that had been abrogated by the new flight paths. *Id.*

FAA acknowledged the harms it had caused and admitted that it did not do the reviews required by the Federal Statutes. PB at 21.⁷ FAA Senior Vice President of Mission Support Services, Elizabeth Ray, the senior FAA official responsible for both the development of air navigation procedures and FAA environmental reviews, reassured the Roundtable that FAA was working to return flight paths to their historic areas, “*with a technical solution that can come as close as possible to the attributes of the old paths.*” JA 1406.

Ms. Ray also said that “FAA would work through the Roundtable process on changes to the Metroplex Program” (JA 1411) and followed up in a letter stating that FAA was:

⁷ Although FAA criticizes the County’s reliance on these statements made in a public forum with a court reporter, FAA also relies upon them. A. at 12, 28.

prepared to work with the Roundtable to amend or optimize the existing procedures or perhaps even create new procedures where possible.

JA 1414-1415.

Contrary to FAA's assertions, FAA told the public it would modify the challenged procedures. Far from being "isolated out-of-context" comments, these statements were made by the FAA Administrator *and* the senior FAA official directly responsible. Howard County reasonably relied on these statements in understanding that FAA was working to modify procedures. It is frivolous to claim otherwise.

b. FAA misled the Roundtable and now misleads the Court.

It is now clear that FAA had no intention of returning to historic flight paths, despite its representations. FAA argues that "FAA made no statement that would give Howard County a reasonable belief that the FAA would modify any of the challenged procedures." A. at 20. This incredible statement is refuted by the FAA Administrator's December 12, 2016 letter and Ms. Ray's letter and statements, but also by the Administrator's May 16, 2017 letter to members of Congress, after the Roundtable had been established, where he *reiterated* his intent to "*amend the existing procedures.*" JA 1441-1458.

It is impossible to reconcile the Administrator's statements with FAA's position that "no statement" was made to give anyone reason to believe FAA would modify the procedures. Confoundingly, in its Answer, FAA acknowledges that it

“spent a year working jointly with the MAA on developing a new procedure.” A. at

3. The FAA’s conflicting statements are characteristic of its decision and render the decision arbitrary and capricious.

c. FAA announced unlawful Final Orders at the April 24, 2018 Roundtable meeting.

Although the Roundtable immediately and unanimously responded to the FAA Administrator’s request for a consensus statement, the Administrator did not respond as he said he would. PB at 21. Nonetheless, the Roundtable continued to try to work with FAA for a year until FAA made a surprise announcement that it would not honor its promises. FAA announced decisions not to pursue the changes it offered, not to return to NCP compliance, and not to use vectoring. FAA refused to explain its actions and was unable to answer basic questions about its compliance with the Federal Statutes. PB 27.

FAA was either 1) considering the issues and then made a decision, which the April statements indicate, or 2) was misleading the public that it was considering these issues. Either way, the decisions were never reviewed under the Federal Statutes.

The Court can simply read the Roundtable’s April 2017 minutes (JA 1403-1411) and April 2018 minutes (JA 2092-2106) to decide whether decisions were made without review.

Understandably, the State filed its Administrative Petition. FAA responded by immediately ending engagement with the Roundtable. The Eastern Region Deputy Regional Administrator wrote “we are unable to continue our conversations with the Roundtable, the Airport, or the associated contractors on these issues.” JA 2292. Only then did Howard County proceed with its Administrative Petition.

d. FAA’s decision to end conversations with the Roundtable is a Final Order.

FAA admits it ended engagement with the Roundtable, acknowledging “FAA would not discuss issues with the Roundtable.” A. at 24; *see also* JA 2311. Further showing this was a final decision is FAA’s September 19, 2018 letter denying the County’s Administrative Petition, which states FAA would “reengage” with the Roundtable “only if” the County withdrew its Petition. This kind of administrative extortion is arbitrary and capricious, and an abuse of discretion.

FAA’s decision to abandon the administrative process it required is arbitrary regardless of whether that process was specifically required by law. It was the mechanism established by FAA to address its noncompliance with the law. FAA’s conduct has gone from bad, to worse, to worst. Rather than correct its noncompliance through good-faith efforts to help the people it has harmed, FAA instead directed a course of conduct that it then abandoned. This abuse of process is arbitrary and capricious. Where an agency “explains its decision in a manner

contrary to the evidence before it,” the decision may be reversed. *Bedford County*, 769 F.3d at 1022.

3. FAA Arbitrarily And Capriciously Disregarded The NCP, NAP, And ANZ.

FAA offers no rebuttal to the County’s claim that it did not consider the NAP or ANZ in any of the decisions challenged here, despite the fact that the FAA Administrator repeatedly referenced the NAP. JA 991-992 and JA 1331-1340. For that reason alone, the County’s requested relief should be granted.

Additionally, FAA’s argument that it is not responsible for complying with federal noise abatement law is without support and contradicted by its own statement that it developed procedures “designed to comport with NCP.” A. 37. Because FAA took deliberate actions it knew did not comport with the NCP, and because *after* FAA was challenged to restore compliance it made a final decision to not comply, this Court should order FAA to comply.

a. FAA abandoned the NCP.

FAA vainly argues that it did not violate the NCP but since October 22, 2015, MAA has begged FAA to comply with the NCP.⁸ JA 1197-1198. Contrary to FAA assertions, MAA’s notice was specific and states that the departure procedures

⁸ Maryland has filed a Petition for Judicial Relief against FAA in the U.S. Court of Appeals for the District of Columbia, challenging certain decisions related to BWI on different grounds than those asserted here. *Maryland v. FAA*, No. 18-1302.

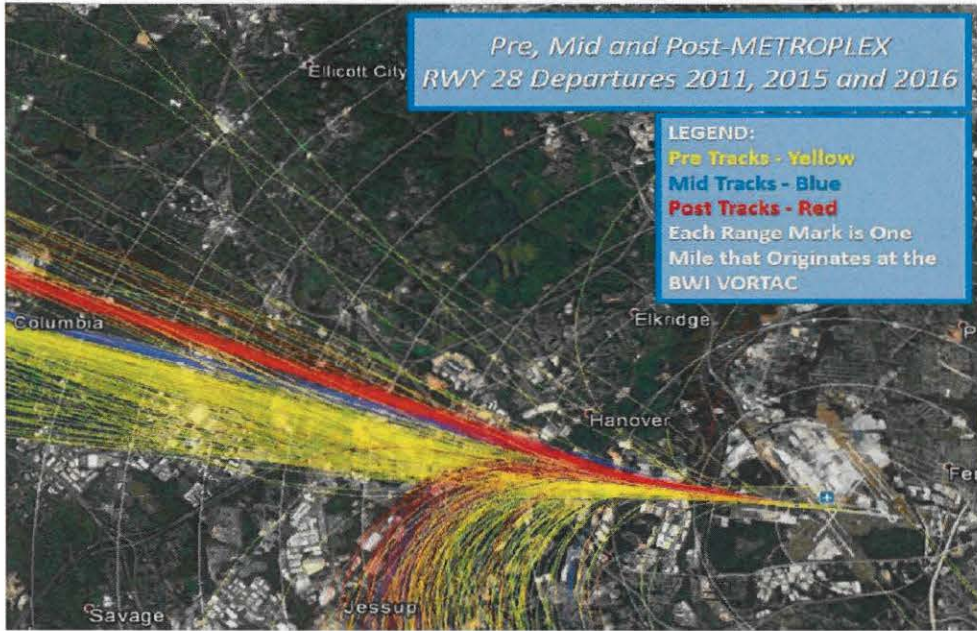
“differ from the previous procedures in both flight track and altitude requirements,” and do not comply with the NCP. *Id.* Members of Congress also notified the Administrator that the procedures did not comply with the NCP or NAP. JA 993. At no time did FAA say what it now asserts: that it was complying with the NCP. Instead, it stated publicly that FAA’s compliance was “voluntary,” meaning FAA knew it was not complying but thought it did not have to. JA 1409.

FAA chose not to reply to MAA’s concerns, and instead adopted new procedures that exacerbated the problem. In February 2016, FAA secretly issued TERPZ6, which moved flight paths 13° further north, away from planned areas and away from the ANZ and the NEM contours, condemning the NCP. PB at 16. Despite all the efforts State and local governments had made to prevent noise impacts, as directed by FAA, FAA unilaterally, and without the notice required by its own regulations, changed flight paths in ways it knew would not comply.

The departure changes deviated from the NCP and NAP in two important ways. Departures deviated from established flight tracks established in the NCP and made turns prior to the three-mile DME. JA 236; A. at 47. Additionally, partly because turns were occurring at lower altitudes, which had *expressly* not been reviewed in the DC EA, the new flight paths did not correspond with the NEM, which also negated the ANZ. PB at 45. FAA admits moving “the 65 DNL contour to the north.” A. 42. The flight tracks were moved and concentrated over noise

sensitive areas causing harmful impacts to Howard County and its citizens. JA 1399.

TERPZ SID - RWY 28 Pre/Mid/Post Metroplex



BWI Roundtable
April 18, 2017



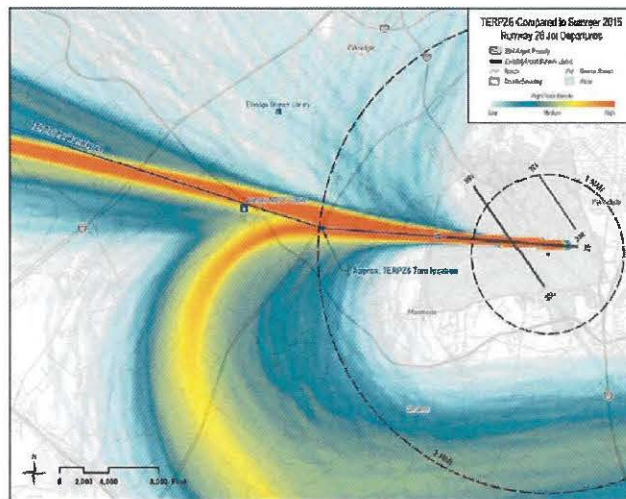
Federal Aviation
Administration

22

FAA says TERPZ6 complies with the three-mile limit in theory, but mapping shows it does not in practice. The turn occurs before 3 DME. JA 1716 (mislabelled as 15R).



TERPZ6 Runway 15R, compared to 2015



Source: MAA, 2016

'be better'



In August 2016, FAA informed MAA that “noise abatement procedures do not exist anymore.” JA 2221. Although FAA casts aspersion on this document (A. at 26), the document speaks for itself. Moreover, the FAA Administrator and other Senior FAA Officials also acknowledged that the NCP had been violated.

FAA actually made the decision to abandon the NCP twice: first, when it took action in derogation of the NCP; and, second, when it refused to take action to return to compliance after telling the public, MAA, and members of Congress that it would.

b. FAA is required to limit noise.

FAA may not argue that it has no responsibilities to the programs it promulgated to meet its legislative mandate to limit noise. PB 37-38. Contrary to FAA's representations to the Roundtable, noise abatement is not "voluntary." JA 1409. The notion that the NCP does not matter is controverted by FAA's statement in its Answer that TERPZ6 was "designed to comport with NCP." A at 37.

c. FAA's regulations require notice before it rescinds or modifies the NCP.

FAA conspicuously fails to address the legal requirement that the agency notify the airport operator if FAA intends to depart from an established NCP. 14 C.F.R. § 150.35. The detailed regulatory requirements show the program is substantive, not aspirational. Just as in *Bennett v. Spear*, the statutory scheme "presupposes" that the NCP will play a central role in the decision-making process. 520 U.S. at 169.

The Record clearly shows that FAA understood and conceded that its own actions had abrogated the NCP for departures from RWY 28. FAA made assurances to numerous stakeholders that it would return to old flight paths but by April 2018, it became clear that FAA would not. This Court should order FAA to comply.

4. FAA Imposed Significant Impacts On Howard County And Its Citizens Without Conducting Necessary Reviews.

MAA and the public put FAA on notice it had created significant impacts but FAA did nothing. Ms. Ray promised that FAA would respond to concerns that people had been placed inside the 65 DNL noise contour without notice or review, but FAA never did. PB 46. This constitutes a decision to let the impacts remain without review, which violates the Federal Statutes *and* renders the decision arbitrary and capricious because FAA has failed to offer any explanation, let alone a rational explanation.

5. FAA's Ever-changing Position On Vectoring Is Arbitrary And Capricious.

On April 24, 2018, FAA published the following written order:

FAA will not return to vectoring as a primary means of Air Traffic Control for All Departing and Arriving aircraft from/to BWI.

JA 2011. FAA offers no reason why the public should not rely on its statement at face value, but now argues the opposite of what it told the public; that it did not make a decision on vectoring.

a. Vectoring as a Primary "Means" of Air Traffic Control

The question before the Court is not whether FAA abandoned vectoring, but when and how. Vectoring was discussed at virtually every Roundtable meeting. The goal was to create "randomness from the 285 heading." PB at 52. In addition to

Ms. Ray, several other FAA Officials discussed the use of vectoring to provide the relief sought by the Roundtable. PB at 26. One of the most revealing conversations is Mr. Hutto's statement that he would need to "check with tower" about the use of vectoring, which is refuted by Mr. Owens' (who ran the tower) statements about the need for a waiver. The "tower" did not make a decision. Mr. Hutto knew that the "tower" (ATC at BWI) would not make a decision to abandon vectoring as a primary means of air traffic control, instead it would be a high-level policy decision. But the County has no idea who made it, or when, or why.

Other FAA officials including the Manager of the FAA office for Performance Based Navigation,⁹ where new RNAV procedures are developed, explained that FAA was planning to use vectoring. PB 24. Vectoring was again proffered as solution in in July 2017 and September 2017, when Mr. Owens apologized for confusion caused by FAA about whether a waiver was required. *Id.* In November 2017, FAA affirmed in writing that vectoring was an option. PB at 26.

As shown by the written order, sometime between November 7, 2017 and April 24, 2018, FAA made a decision to "not return to vectoring." Despite this, FAA now claims it did not make a decision about vectoring, which is clearly false. FAA decided it would not return to vectoring as a primary means of air traffic control and

⁹ Space limitations prevent a full presentation of the County's case. FAA's conduct in allegedly working with the Roundtable on a PBN process is another example of its misleading communications. *See, e.g.,* JA 1846-1855.

its failure to acknowledge that to the Court dooms its case. Congress gave the County the right to challenge that decision and this Court has the power to overturn it, which it should.

6. FAA Unlawfully Implemented TERPZ4, TERPZ5, and TERPZ6.

TERPZ4, TERPZ5, and TERPZ6 all fail when tested for compliance with the Federal Statutes and the APA.¹⁰ FAA proffers a Categorical Exclusion (“CATEX”) for TERPZ6, but it is facially deficient. Before TERPZ6, FAA used an environmental assessment for TERPZ4, but FAA treated TERPZ6 differently, without explanation. Changing longstanding procedures without explanation or notice is arbitrary. Because of this TERPZ6 should be vacated and replaced with flight procedures and waypoints that reflect historic, agreed-upon flight paths.

a. TERPZ6

FAA issued TERPZ6 in February 2016, without any public notice. This is undisputed. It is unreasonable and arbitrary for FAA to have relied on a CATEX under these circumstances. *City of Phoenix*, 869 F.3d at 972 (holding that use of a CATEX was arbitrary in light of FAA’s failure to notify the public of new procedures before they went into effect”). FAA repeatedly references “publishing”

¹⁰ FAA overreaches by alleging the County “concedes” FAA “fully evaluated” TERPZ4 in the DC EA. A. at 38. FAA did NOT disclose or review the significant impacts of TERPZ4, but TERPZ4 and TERPZ5 are only challenged here as a basis for TERPZ6.

the procedure, but never offers a citation. A. 18-19, 45. Such a lack of public notice does not meet NEPA's "broad dissemination" requirements.

Not only was there no public notice of TERPZ6, it was implemented while FAA was engaged with various stakeholders but FAA did not tell anyone. Furthermore, in March 2016, the FAA Administrator falsely stated that the flight procedure changes, including TERPZ6, were addressed in the DC EA. PB 17.

FAA misleads the Court about the "facts" of the 13° north shift of TERPZ6. FAA admits that it added a turn to the north, but alleges that Howard County "misunderstood" an uncited "10-degree divergence rule" that controls the separation of aircraft once they are aloft.¹¹ A. 40; PB 28. Runway 28 is oriented to 285° and, historically, flight paths were generally headed in this direction, although dispersed. JA 1399. This is in accord with the NCP, and the NEM, which are oriented to the Runway. JA 1916 and 1990.

When it established TERPZ6, FAA moved virtually *all* air traffic departing RWY 28, from a general heading of 285° to 298°, immediately after departure. The admitted "shift" north undisputedly brought air traffic over noise sensitive areas that previously had none. JA 1726.

¹¹ FAA's Page Proof Answer contained an incorrect citation for this reference.

b. There is no rational basis for using a CATEX for TERPZ6.

In November 2017, FAA again falsely told the Roundtable that TERPZ6 was covered in the DC EA. JA 1856-1859. It was not. After three years of FAA saying TERPZ6 was covered in the DC EA, FAA now proffers a CATEX that does not meet FAA's own criteria, and was not made public until after this action was filed. PB at 53. This is arbitrary.

Contrary to FAA's assertions (A. at 41):

An action on the categorically excluded list is not automatically exempted from environmental review under NEPA.

JA 55 ¶ 303c. A CATEX may not be used where there are "extraordinary circumstances." PB at 54. This includes where there is "an impact on noise levels of noise-sensitive areas," not "significant" impact, just "impact." JA 57 at ¶ 304f. FAA's admission that the 65 DNL counter moved north means TERPZ6 did not qualify for a CATEX, and FAA knew that.

There is no way to reconcile a 13° shift to the north with a finding that there would be NO noise impact. It was irrational for FAA to assume no potential impacts. Because FAA made hidden and erroneous assumptions, "tainting" its "explanation of its action and denying petitioners their opportunity to comment," the TERPZ6 procedure should be vacated. *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1017 (D.C. Cir. 1978). Equally irrational is FAA's argument that the "implication that

the shift in noise is due to the implementation of TERPZ SIX is not warranted.” A. at 42.

FAA argues that public dissatisfaction “is not a metric for determining significance” (A. at 43), but extraordinary circumstances exist where there is a “disruption” of communities, or “an inconsistency with plans” adopted by communities. JA 56 at ¶ 304d. Furthermore, if an action may be “highly controversial,” meaning there is a “reasonable disagreement” over a project’s “risks of causing environmental harm,” a CATEX may not be used. JA 57 at ¶ 304i. Remarkably, FAA states “[t]here is no such dispute here.” A. at 43. But the public, the State, members of Congress, and the County have all raised “reasonable disagreements” over the harm caused by FAA’s decision.

The undisclosed CATEX fails to meet other necessary criteria. CATEX are also prohibited where an action may be inconsistent with State and local law, and where it may cumulatively create a significant impact. JA 57 at ¶¶ 304j, 304k. Additionally, FAA admits that the CATEX *cannot be used* where “new tracks,” or a “change in concentration of aircraft on these tracks,” is the result of a new procedure. A. at 39 (quoting JA 67). The CATEX may only be used for:

instrument procedures conducted below 3,000 feet (AGL) that do not cause traffic to be routinely routed over noise sensitive areas;

JA 989-990 (emphasis added). TERPZ6 does not meet this criterion because it is an instrument procedure conducted below 3,000 feet that routinely routes traffic over noise sensitive areas. FAA guidance requires an environmental assessment, not a CATEX. 1050.1F § 3.1.2.

FAA inexplicably argues that the National Defense Authorization Act of 2017 § 341(b)(4)(B) does not apply. A. at 45. The statute requires FAA to consult with MAA on pre-existing CATEX. FAA has not complied.

Mapping shows that aircraft made a turn, before 3 DME and below 3,000 feet, moving flight tracks over noise sensitive areas where they had not previously flown. JA 1398. This mapping refutes the computer modeling alleged to provide a basis for the CATEX. The underlying data is not in the Record despite NEPA's requirement that "relevant information" be made available to members of the public. *Lands Council v. Powell*, 395 F.3d 1019, 1031-35 (9th Cir. 2005). FAA did not provide sufficient information here. Even a "simple written record" must include evidence sufficient to support the agency's findings. NEPA requires a hard look and broad dissemination of information, not secret conclusory statements.

c. NHPA and Section 4(f)

There is nothing in the record showing how the CATEX complies with the special obligations of NHPA and Section 4(f). FAA must document compliance with special purpose laws as its guidance requires. PB at 54. FAA's admission that

it relied on the DC EA “area of potential effects” is an admission that it did not review TERPZ6 or the other decisions under NHPA or 4(f) as required.

Agencies must carefully examine relevant data and articulate a satisfactory explanation for its action. *North Carolina Wildlife Federation v. North Carolina Dept. of Transp.*, 677 F.3d 596, 601 (4th Cir. 2012). FAA cannot do that here where noise sensitive areas that never had traffic now have concentrated traffic. Therefore, TERPZ6 should be vacated and FAA ordered to return to historic flight paths.

CONCLUSION

For the reasons stated herein, the Court should vacate or reverse the six decisions and Order FAA to take prompt action to address its noncompliance with the law and return flight paths to conformity with the NCP.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 2019, the foregoing Reply Brief of Petitioner Howard County, Maryland was filed electronically using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/

Lewis J. Taylor
Senior Assistant County Solicitor

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 18-2360 Caption: Howard County, MD v. Federal Aviation Administration

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT
Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

Type-Volume Limit for Briefs: Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

Type-Volume Limit for Other Documents if Produced Using a Computer: Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

Typeface and Type Style Requirements: A proportionally spaced typeface (such as Times New Roman) must include serifs and must be 14-point or larger. A monospaced typeface (such as Courier New) must be 12-point or larger (at least 10½ characters per inch). Fed. R. App. P. 32(a)(5), 32(a)(6).

This brief or other document complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. R. 32(f) (cover page, disclosure statement, table of contents, table of citations, statement regarding oral argument, signature block, certificates of counsel, addendum, attachments):

- this brief or other document contains 6,673 [state number of] words
- this brief uses monospaced type and contains _____ [state number of] lines

This brief or other document complies with the typeface and type style requirements because:


- this brief or other document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 [identify word processing program] in 14 point Times New Roman [identify font size and type style]; or
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(s) Lewis J. Taylor

Party Name Howard County, Maryland

Dated: July 30, 2019

ADDENDUM

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 5. Government Organization and Employees (Refs & Annos)
Part I. The Agencies Generally
Chapter 5. Administrative Procedure (Refs & Annos)
Subchapter II. Administrative Procedure (Refs & Annos)

5 U.S.C.A. § 551

§ 551. Definitions

Effective: January 4, 2011
Currentness

For the purpose of this subchapter--

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include--

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

or except as to the requirements of section 552 of this title--


(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; subchapter II of chapter 471 of title 49; or sections 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix;¹

- (2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;
- (3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;
- (4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;
- (5) "rule making" means agency process for formulating, amending, or repealing a rule;
- (6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;
- (7) "adjudication" means agency process for the formulation of an order;
- (8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;
- (9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;
- (10) "sanction" includes the whole or a part of an agency--
- (A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;
 - (B) withholding of relief;
 - (C) imposition of penalty or fine;
 - (D) destruction, taking, seizure, or withholding of property;
 - (E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 42. The Public Health and Welfare
Chapter 55. National Environmental Policy (Refs & Annos)
Subchapter I. Policies and Goals (Refs & Annos)

42 U.S.C.A. § 4331


§ 4331. Congressional declaration of national environmental policy

Currentness

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may--

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 49. Transportation (Refs & Annos)
Subtitle I. Department of Transportation
Chapter 1. Organization (Refs & Annos)

49 U.S.C.A. § 106

§ 106. Federal Aviation Administration

Effective: October 5, 2018
Currentness

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. Except as provided in subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years.

(c) The Administrator must--

(1) be a citizen of the United States;

(2) be a civilian; and

(3) have experience in a field directly related to aviation.

(d)(1) The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.

(3) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(4) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

(f) Authority of the Secretary and the Administrator.--

(1) Authority of the Secretary.--Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers, and controls the personnel and activities, of the Administration. Neither the Secretary nor the Administrator may submit decisions for the approval of, or be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(2) Authority of the Administrator.--The Administrator--

(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to--

(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

(ii) the acquisition and maintenance of property, services, and equipment of the Administration;

(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

(iv) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

(B) shall offer advice and counsel to the President with respect to the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

(D) except as otherwise provided for in this title, and notwithstanding any other provision of law, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

(3) Regulations.--

(A) **In general.--**In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking. On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.

(B) **Approval of Secretary of Transportation.--**(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$250,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to--

(I) have an annual effect on the economy of \$250,000,000 or more or adversely affect in a substantial and material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or

(II) raise novel or significant legal or policy issues arising out of legal mandates that may substantially and materially affect other transportation modes.

(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

(C) **Periodic review.**—(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

(iii) For purposes of this subparagraph, the term “unusually burdensome regulation” means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$25,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Act of 1996) in any year.

(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).

(4) **Definition of political appointee.**—For purposes of this subsection, the term “political appointee” means any individual who—

(A) is employed in a position listed in sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(g) **Duties and powers of Administrator.**—The Administrator shall carry out the following:

United States Code Annotated
Title 49. Transportation (Refs & Annos)
Subtitle I. Department of Transportation
Chapter 3. General Duties and Powers
Subchapter I. Duties of the Secretary of Transportation

49 U.S.C.A. § 303

§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

Effective: December 4, 2015

Currentness

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) **Approval of programs and projects.**--Subject to subsections (d) and (h), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204¹ of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if--

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(d) **De minimis impacts.**--

(1) **Requirements.**--

(A) **Requirements for historic sites.**--The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) **Requirements for parks, recreation areas, and wildlife or waterfowl refuges.**--The requirements of subsection (c) (1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines,

in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) Criteria.--In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) Historic sites.--With respect to historic sites, the Secretary may make a finding of de minimis impact only if--

(A) the Secretary has determined, in accordance with the consultation process required under section 306108 of title 54, United States Code,² that--

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) Parks, recreation areas, and wildlife or waterfowl refuges.--With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if--

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(e) Satisfaction of requirements for certain historic sites.--

(1) In general.--The Secretary shall--

United States Code Annotated
Title 54. National Park Service and Related Programs (Refs & Annos)
Subtitle III. National Preservation Programs
Division a. Historic Preservation
Subdivision 5. Federal Agency Historic Preservation Responsibilities
Chapter 3061. Program Responsibilities and Authorities
Subchapter I. In General

54 U.S.C.A. § 306108
Formerly cited as 16 USCA § 470f

§ 306108. Effect of undertaking on historic property

Effective: December 19, 2014
Currentness

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

CREDIT(S)

(Pub.L. 113-287, § 3, Dec. 19, 2014, 128 Stat. 3227.)

54 U.S.C.A. § 306108, 54 USCA § 306108

Current through P.L. 116-21. Some statute sections may be more current, see credits for details.

Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter B. Procedural Rules
Part 11. General Rulemaking Procedures (Refs & Annos)
Subpart A. Rulemaking Procedures
Petitions for Rulemaking and for Exemption

14 C.F.R. § 11.61

§ 11.61 May I ask FAA to adopt, amend, or repeal a regulation,
or grant relief from the requirements of a current regulation?

Currentness

(a) Using a petition for rulemaking, you may ask FAA to add a new regulation to title 14 of the Code of Federal Regulations (14 CFR) or ask FAA to amend or repeal a current regulation in 14 CFR.

(b) Using a petition for exemption, you may ask FAA to grant you relief from current regulations in 14 CFR.

AUTHORITY: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, 46102, and 51 U.S.C. 50901–50923.

Notes of Decisions (11)

Current through June 27, 2019; 84 FR 30631.

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KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter E. Airspace
Part 71. Designation of Class a, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points (Refs & Annos)

14 C.F.R. § 71.1

§ 71.1 Applicability.

Effective: September 15, 2018
Currentness

<Text of section effective Sept. 15, 2018 through Sept. 15, 2019.>

<Incorporation by reference of FAA Order 7400.11C approved
Sept. 15, 2018, through Sept. 15, 2019. See 83 FR 43756.>

A listing for Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.11C is effective September 15, 2018, through September 15, 2019. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the Federal Register. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the Federal Register. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.11C may be obtained from Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, (202) 267-8783. An electronic version of the Order is available on the FAA website at http://www.faa.gov/air_traffic/publications. Copies of FAA Order 7400.11C may be inspected in Docket No. FAA-2018-0770; Amendment No. 71-50, on <http://www.regulations.gov>. A copy of FAA Order 7400.11C may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Credits

[Amdt. 71-40, 73 FR 54495, Sept. 22, 2008; 73 FR 60939, Oct. 15, 2008; Amdt. 71-41, 74 FR 46490, Sept. 10, 2009; Amdt. 71-42, 75 FR 55268, Sept. 10, 2010; Amdt. 71-43, 76 FR 53329, Aug. 26, 2011; Amdt. 71-44, 77 FR 50908, Aug. 23, 2012; Amdt. 71-45, 78 FR 52848, Aug. 27, 2013; Amdt. 71-46, 79 FR 51887, Sept. 2, 2014; Amdt. 71-47, 80 FR 51937, Aug. 27, 2015; Amdt. 71-48, 81 FR 55372, Aug. 19, 2016; Amdt. 71-49, 82 FR 40068, Aug. 24, 2017; Amdt. 71-50, 83 FR 43757, Aug. 28, 2018; 83 FR 45337, Sept. 7, 2018]

AUTHORITY: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p.389

Code of Federal Regulations
Title 14. Aeronautics and Space
Chapter I. Federal Aviation Administration, Department of Transportation
Subchapter F. Air Traffic and General Operating Rules
Part 91. General Operating and Flight Rules (Refs & Annos)
Subpart A. General (Refs & Annos)

14 C.F.R. § 91.13

§ 91.13 Careless or reckless operation.

Currentness

(a) Aircraft operations for the purpose of air navigation. No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

(b) Aircraft operations other than for the purpose of air navigation. No person may operate an aircraft, other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo), in a careless or reckless manner so as to endanger the life or property of another.

AUTHORITY: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub.L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

Notes of Decisions (80)

Current through June 27, 2019; 84 FR 30631.

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Maryland DEPARTMENT OF PLANNING

March 25, 2020

Mr. Ryan Lombardi, P.E.
Environmental Planner
HNTB Corporation
2900 South Quincy Street
Suite 600
Arlington, VA 22206

STATE CLEARINGHOUSE RECOMMENDATION

State Application Identifier: MD20200205-0097

Applicant: HNTB Corporation

Project Description: Updated Draft Envir. Assessment and Draft Section 4(f) Determination: Proposed Improvements - Pavement Rehab., Obstruction Removal, Terminal Improv., Taxiway Construction/Relocation, Helipad Relocation, Constr. of Airport maint. Facs, Vehic. Serv., Rdway Constr., Airport Firefighting Fac. Expan...

Project Address: 7035 Elm Road, Baltimore, MD 21240

Project Location: County(ies) of Anne Arundel

Approving Authority: U.S. Department of Transportation DOT/FAA

Recommendation: Consistent with Qualifying Comments

Dear Mr. Lombardi:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 34.02.01.04-.06, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation. This recommendation is valid for a period of three years from the date of this letter.

Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning, including the Maryland Historical Trust. Anne Arundel County did not have comments.

The Maryland Department of Natural Resources; and the Maryland Department of Planning, including the Maryland Historical Trust found this project to be consistent with their plans, programs, and objectives.

Our Department (Planning) noted that "BWI Thurgood Marshall Airport's improvements and needed renovations are listed in Anne Arundel's General Development Plan 2009 Transportation Section."

The Maryland Historical Trust has determined that the project will have "no effect" on historic properties and that the federal and/or State historic preservation requirements have been met.

Mr. Ryan Lombardi, P.E.

March 25, 2020

Page 2

State Application Identifier: **MD20200205-0097**

The Maryland Department of Environment (MDE) 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 Management 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 Waste Diversion and Utilization 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. Any contract specifying “lead paint abatement” must comply with Code of Maryland Regulations (COMAR) 26.16.01 - Accreditation and Training for Lead Paint Abatement Services. If a property was built before 1950 and will be used as rental housing, then compliance with COMAR 26.16.02 - Reduction of Lead Risk in Housing; and Environment Article Title 6, Subtitle 8, is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.
6. 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.
7. 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.

Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse. The State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation.

Mr. Ryan Lombardi, P.E.

March 25, 2020

Page 3

State Application Identifier: **MD20200205-0097**

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 myra.barnes@maryland.gov. **Also, please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.**

Thank you for your cooperation with the MIRC process.

Sincerely,

A handwritten signature in blue ink that reads "Myra A. Barnes". The signature is written in a cursive style and is positioned above a horizontal dashed line.

Myra Barnes, Lead Clearinghouse Coordinator

MB:MB

Enclosure(s)

cc: Robin Bowie

Tony Redman - DNR

Amanda Redmiles - MDE

Samantha Harris - ANAR

Joseph Griffiths - MDPL

Beth Cole - MHT

20-0097_CRR.CLS.docx



Maryland DEPARTMENT OF PLANNING

PROJECT STATUS FORM

Please complete this form and return it to the State Clearinghouse upon receipt of notification that the project has been approved or not approved by the approving authority.

TO: Maryland State Clearinghouse
Maryland Department of Planning
301 West Preston Street
Room 1104
Baltimore, MD 21201-2305

DATE: _____
(Please fill in the date form completed)

FROM: _____
(Name of person completing this form.)

PHONE: _____
(Area Code & Phone number)

RE: State Application Identifier: MD20200205-0097
Project Description: Updated Draft Envir. Assessment and Draft Section 4(f) Determination: Proposed Improvements - Pavement Rehab., Obstruction Removal, Terminal Improv., Taxiway Construction/Relocation, Helipad Relocation, Constr. of Airport maint. Facs, Vehic. Serv., Rdway Constr., Airport Firefighting Fac. Expan...

| | | | |
|-------------------------------------|--|--|---|
| PROJECT APPROVAL | | | |
| This project/plan was: | <input type="checkbox"/> Approved | <input type="checkbox"/> Approved with Modification | <input type="checkbox"/> Disapproved |
| Name of Approving Authority: | _____ | | Date Approved: |
| _____ | | | _____ |

| | | | |
|---|------------------|------------------|------------------|
| FUNDING APPROVAL | | | |
| <i>The funding (if applicable) has been approved for the period of:</i> | | | |
| _____, 201__ to _____, 201__ as follows: | | | |
| Federal \$: | Local \$: | State \$: | Other \$: |
| _____ | _____ | _____ | _____ |

| |
|--|
| OTHER |
| <input type="checkbox"/> <i>Further comment or explanation is attached</i> |



Maryland

DEPARTMENT OF PLANNING

June 1, 2020

Ms. Caroline Pinegar, AICP
Environmental Project Manager
HNTB Corporation
2900 South Quincy Street
Suite 600
Arlington, VA 22206

STATE CLEARINGHOUSE RECOMMENDATION

State Application Identifier: MD20200423-0308

Applicant: HNTB Corporation

Project Description: Invite to Attend a Virtual Workshop via a Webex Meet. on 5-2-2020 at 11:30 am-1:30 pm, or 6:00 pm-8:30 pm to share info. & to announce the extens. of comments to, 6-4-2020, on the Update. Draft Environ.. Assess. and Draft Sect. 4(f) Deter. for Proposed Improve. at BWI, Thurgood Marshall Airport

Project Location: County(ies) of Anne Arundel

Approving Authority: Maryland Department of Transportation MDOT/MAA

Recommendation: Consistent with Qualifying Comments

Dear Ms. Pinegar:

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. This recommendation is valid for a period of three years from the date of this letter.

Review comments were requested from the Maryland Department(s) of Natural Resources, the Environment; Anne Arundel County; and the Maryland Department of Planning, including the Maryland Historical Trust. The Maryland Department of Natural Resources; the Maryland Historical Trust; and Anne Arundel County did not have comments.

The Maryland Department of Planning found this project to be consistent with their plans, programs, and objectives.

Our Department (Planning) noted that the Baltimore Washington Thurgood (BWI) Marshall Airport is asking for comments on the updated Draft Environmental Assessment (EA) and Draft Section 4F determination. The analysis provides updates to a noise analysis, changes made to address public feedback received on the 1/2018 EA, additional coordination conducted with Anne Arundel County related to impacts to the BWI trail determined as a result of refined preliminary design, the update aviation activity forecasts, the update to existing conditions and the use of the Midfield Cargo Facility project and to address cumulative impacts related to additional projects that have been environmentally approved by the Federal Aviation Administration (FAA) since the Draft EA publication. The airport's proposed actions are contained in the Airport Layout Plan (ALP) and are meant to meet FAA design standards, enhance the airfield safety and efficiency, accommodate existing and anticipated passenger demand and improve customer service. BWI Marshall is located within a Priority Funding Area. The ALP has been approved by the County.

Ms. Caroline Pinegar, AICP

June 1, 2020

Page 2

State Application Identifier: **MD20200423-0308**

The Maryland Department(s) of 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. Any contract specifying “lead paint abatement” must comply with Code of Maryland Regulations (COMAR) 26.16.01 - Accreditation and Training for Lead Paint Abatement Services. If a property was built before 1978 and will be used as rental housing, then compliance with COMAR 26.16.02 - Reduction of Lead Risk in Housing; and Environment Article Title 6, Subtitle 8, is required. Additional guidance regarding projects where lead paint may be encountered can be obtained by contacting the Environmental Lead Division at (410) 537-3825.
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7. 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 requires site approval. Contact the Mining Program at (410) 537-3557 for further details.

Ms. Caroline Pinegar, AICP

June 1, 2020

Page 3

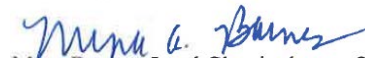
State Application Identifier: **MD20200423-0308**

Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse. The State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the approving authority cannot accommodate the recommendation.

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 myra.barnes@maryland.gov. **Also please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.**

Thank you for your cooperation with the MIRC process.

Sincerely,



Myra Barnes, Lead Clearinghouse Coordinator

MB:MB

Enclosure(s)

cc: Ian Beam – MDOT
Tony Redman - DNR
Amanda Redmiles - MDE

Robin Bowie
Samantha Harris - ANAR
Bihui Xu - MDPI-T

Joseph Griffiths - MDPL
Beth Cole - MHT

20-0308_CRR.CLS.docx



Maryland DEPARTMENT OF PLANNING

PROJECT STATUS FORM

Please complete this form and return it to the State Clearinghouse upon receipt of notification that the project has been approved or not approved by the approving authority.

TO: Maryland State Clearinghouse
Maryland Department of Planning
301 West Preston Street
Room 1104
Baltimore, MD 21201-2305

DATE: _____
(Please fill in the date form completed)

FROM: _____
(Name of person completing this form.)

PHONE: _____
(Area Code & Phone number)

RE: State Application Identifier: MD20200423-0308
Project Description: Invite to Attend a Virtual Workshop via a Webex Meet. on 5-2-2020 at 11:30 am-1:30 pm, or 6:00 pm-8:30 pm to share info. & to announce the extens. of comments to, 6-4-2020, on the Update. Draft Environ.. Assess. and Draft Sect. 4(f) Deter. for Proposed Improve. at BWI, Thurgood Marshall Airport

| | | | |
|------------------------------|-----------------------------------|---|--------------------------------------|
| PROJECT APPROVAL | | | |
| This project/plan was: | <input type="checkbox"/> Approved | <input type="checkbox"/> Approved with Modification | <input type="checkbox"/> Disapproved |
| Name of Approving Authority: | _____ | | Date Approved: _____ |

| | | | |
|---|-----------|-----------|-----------|
| FUNDING APPROVAL | | | |
| <i>The funding (if applicable) has been approved for the period of:</i> | | | |
| _____, 201__ to _____, 201__ as follows: | | | |
| Federal \$: | Local \$: | State \$: | Other \$: |
| _____ | _____ | _____ | _____ |

| |
|--|
| OTHER |
| <input type="checkbox"/> <i>Further comment or explanation is attached</i> |

Ms. Caroline Pinegar, AICP

June 1, 2020

Page 5

State Application Identifier: **MD20200423-0308**

Ms. Caroline Pinegar, AICP
Environmental Project Manager,
HNTB Corporation
2900 South Quincy Street
Suite 600

Arlington, VA 22206

Ian Beam - MDOT

Robin Bowie

Maryland Department of Transportation (MDOT/MAA)
----MD

From: Lisa Hoerger -DNR-
To: [Robin Bowie](#)
Cc: joseph.abe@maryland.gov; hnelson@maryland.gov; Denise Keehner -MDE-; Kim Hughes; Caroline Pinegar; [Ryan Lombardi](#)
Subject: Re: Fw: BWI Marshall EA/Section 4(f) Determination Coastal Zone Consistency Documentation and Forms
Date: Wednesday, March 18, 2020 9:06:02 AM
Attachments: [image002.png](#)
[image004.png](#)

Good Morning all,

No further coordination is needed with this office since BWI is not located in the Critical Area portion of Maryland's Coastal Zone.

Take care.

Lisa



Lisa A. Hoerger
Regulations and Mapping Coordinator
Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, MD
[410-260-3478](tel:410-260-3478) (office)
lisa.hoerger@maryland.gov

dnr.maryland.gov/criticalarea

[Click here](#) to complete a three question customer experience survey.

On Wed, Mar 18, 2020 at 8:58 AM Robin Bowie <rbowie@bwiairport.com> wrote:

It would help if we sent the attachments!

Good morning, all! Hope everyone is hanging in there. We are resubmitting all the paperwork Joe asked us to fill out along with the original Coastal Zone Consistency documentation to support the checklists.

Let us know if this is more in line with what you are hoping to receive.

At Joe's suggestion, we will comment on the checklists at a later date. We wanted to get this in for review first.

Thanks!

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
410-859-7103 (Office)
rbowie@bwiairport.com

From: Joseph Abe -DNR-
To: [Robin Bowie](#)
Cc: [Heather Nelson -MDE-](#); [Denise Keehner -MDE-](#); [Lisa Hoerger -DNR-](#); [Kim Hughes](#); [Caroline Pinegar](#); [Ryan Lombardi](#)
Subject: Re: BWI Marshall EA/Section 4(f) Determination Coastal Zone Consistency Documentation and Forms
Date: Thursday, May 7, 2020 4:15:37 PM

Hi Robin:

I am responding to your request for CZM consistency concurrence for the following project:

Proposed ALP Phase I Improvements at BWI Marshall Airport

Thank you for putting together such a thorough and complete review package.

Based on our review of the information provided, the above project is consistent with the enforceable coastal policies of the Maryland Coastal Zone Management Program. Please note that this determination does not obviate the applicant's responsibility to obtain any other State or local approvals that may be necessary for the project.

Best Regards and Stay Safe,



dnr.maryland.gov

Joseph Abe
Coastal Policy Coordinator Chesapeake
and Coastal Service
Department of Natural Resources
580 Taylor Avenue, E-2
Annapolis, MD 21401
[410-260-8740](tel:410-260-8740) (office)
[443-690-5176](tel:443-690-5176) (cell)
joseph.abe@maryland.gov

[Click here](#) to complete a three question customer experience survey.

****Beginning on Friday March 13th state workers will be on mandatory telework. If you need to speak by phone please use my cell phone number or respond to my email with a request for a conference line number. Thank you.***

From: Robin Bowie
To: joseph.abe@maryland.gov; hnelson@maryland.gov; Denise Keehner -MDE-; [Lisa Hoerger -DNR-](#)
Cc: [Kim Hughes](#); [Caroline Pinegar](#); [Ryan Lombardi](#)
Subject: Fw: BWI Marshall EA/Section 4(f) Determination Coastal Zone Consistency Documentation and Forms
Date: Wednesday, March 18, 2020 8:59:09 AM
Attachments: [image002.png](#)
[image004.png](#)
[20200317_Updated_BWI_Draft_EA_MDE_Coastal_Consistency_Documentation.pdf](#)
[CoastalConsistency-RequestForm_BWI_Phase_I_Improvements.pdf](#)
[MD_CZMP_-_Core_Policies_Checklist_BWI_ALP_Phase_I_Improvements.pdf](#)
[MD_CZMP_-_Development_Policies_Checklist_BWI_ALP_Phase_I_Improvements.pdf](#)
[MD_CZMP_-_Forest_Policies_Checklist_BWI_ALP_Phase_I_Improvements.pdf](#)
[MD_CZMP_-_Historical_&_Archaeological_Policies_Checklist_BWI_ALP_Phase_I_Impr.pdf](#)
[MD_CZMP_-_Transportation_Policies_Checklist_BWI_Phase_I_Improvements.pdf](#)

It would help if we sent the attachments!

Good morning, all! Hope everyone is hanging in there. We are resubmitting all the paperwork Joe asked us to fill out along with the original Coastal Zone Consistency documentation to support the checklists.

Let us know if this is more in line with what you are hoping to receive.

At Joe's suggestion, we will comment on the checklists at a later date. We wanted to get this in for review first.

Thanks!

Ms. Robin M. Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration
410-859-7103 (Office)
rbowie@bwiairport.com

**COASTAL ZONE MANAGEMENT ACT (CZMA)
FEDERAL CONSISTENCY DETERMINATION FOR THE
PROPOSED ALP PHASE I IMPROVEMENTS AT BWI MARSHALL AIRPORT
LINTHICUM, MARYLAND**

CONSISTENCY REVIEW: This document provides documentation to support a consistency determination under CZMA section 307(c)(1) [or (2)] and 15 CFR Part 930, subpart C, for the proposed Airport Layout Plan (ALP) Phase I Improvements at of Baltimore/ Washington International Thurgood Marshall Airport (BWI Marshall Airport). The information is provided pursuant to 15 CFR §930.39 (including maps and additional supporting information) and is further supported in the accompanying *Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport*, dated February 2020 (“Updated DEA/Section 4(f) Determination”).

Note that a *Draft EA and Draft Section 4(f) Determination for Proposed Improvements 2016-2020 at BWI Marshall Airport* was published on January 5, 2018. A public workshop was held on January 25, 2018 and comments were accepted from the public through February 5, 2018. An Updated DEA/Section 4(f) Determination was reissued February 6, 2020 for the reasons discussed in Chapter 1 of the Updated Draft EA/Section 4(f) Determination. As part of the submission of the Draft EA and Draft Section 4(f) Determination in January 2018 for agency and public review, MDOT MAA via the Maryland State Clearinghouse review process submitted a request to the MDE Federal Consistency Coordinator seeking a Coastal Zone Consistency determination for the proposed improvements, pursuant to Section 307 of the CZMA. The MDE issued their consistency determination in February 2018 stating that the proposed improvements are consistent with the Maryland CZMP while noting the forest impact mitigation that would be required to meet the provisions of the Forest Conservation Act (FCA) as well as the need to provide mitigation and obtain a permit from the MDE Wetlands and Waterways Program.

As part of the submission of the Updated DEA/Section 4(f) Determination for agency and public review, MDOT MAA via the Maryland State Clearinghouse review process is submitting a new request to the MDE Federal Consistency Coordinator seeking an updated Coastal Zone Consistency determination for the proposed improvements, pursuant to Section 307 of the CZMA.

PROJECT DESCRIPTION: The MDOT MAA, owner and operator of BWI Marshall Airport, located in Anne Arundel County, Maryland, proposes improvements at the Airport, collectively identified as the Phase 1 Improvements on the BWI Marshall Airport ALP. The Proposed Action consists of the project in **Table 1**, and as shown on Figures 1.2-1, 1.2-2, and 1.2-3 of the Updated Draft EA. The components of the Proposed Action are defined by need:

Table 1
Proposed Action as Defined by Need

| Need | Project |
|---|--|
| Meet FAA Design Standards | <ul style="list-style-type: none"> • Improve taxiway fillets/shoulders in the International Terminal Area; • Construct new infill pavement near Taxiways T, P and 'Future P' (Runway 4-22 has been converted to Taxiway P but was previously referred to as Future P); • Relocate Taxiway K and Re-establish Taxiway L; • Relocate Taxiways R and F; • Relocate Taxiway V; • Expand Runway 28 Deicing Pad; and • Remove Part 77 Obstructions: for on-airport property clear the primary, approach (50:1) and transition surfaces; for off-airport properties clear to the threshold siting surface (34:1); and • Clear trees in the VORTAC critical area to a 1,200-foot radius. |
| Enhance Airfield Safety and Efficiency | <ul style="list-style-type: none"> • Construct Taxiway U3; • Relocate Taxiway H; • Construct Isolation/ Remain Overnight (RON) Apron; • Construct vehicle service roadway (VSR) connector south of the former Runway 4 end; • Expand existing ARFF indoor parking; • Relocate fire training facility; • Rehabilitate/improve pavement in accordance with the latest Pavement Management Plan; and • Relocate the remote receiver (RR). |
| Accommodate Existing and Anticipated Passenger Demand | <ul style="list-style-type: none"> • Expand Runway 15R Deicing Pad; • Construct Second FBO; • Construct new airline maintenance facility; • Increase runway deicing chemical storage and construct access road; • Building 113 Demolition; and • Relocate and consolidate airport maintenance complex. |
| Improve Customer Service | <ul style="list-style-type: none"> • Construct new Sky Bridge C; • Widen terminal roadway; and • Widen upper level roadway at Concourse E. |

Connected Actions

Connected actions are those which are closely related to the proposed action and will not occur unless the proposed action occurs. Many connected actions, including ALP identified actions and additional actions, are required to implement the various components of the Proposed Action. **Table 2** lists the anticipated connected actions by project component.

Table 2
Connected Actions

| Project Name | Anticipated Connected Actions ¹ |
|--|---|
| (P11) New Airline Maintenance Facility | <ul style="list-style-type: none"> • Provide perimeter roadway in the northwest quadrant of the Airport |
| (P45) Relocate Fire Training Facility | <ul style="list-style-type: none"> • (13) Provide VSR from Runway 33L to the relocated training facility • Provide VSR from the relocated training facility to Runway 28 • Provide VSR from relocated training facility to Aviation Boulevard • Construct new MDOT MAA training facilities, including a fire training area and classroom building |
| (1) Relocate Taxiways F and R | <ul style="list-style-type: none"> • Rebuild portions of Taxiways G and R1 to connect Runway 10-28 to the relocated Taxiway R • Build Taxiway R2 to provide additional connection between Runway 10-28 and proposed Taxiway R • Build Taxiway F1 to provide additional connection between new Taxiway R and relocated Taxiway F • Relocate FAA Equipment Shelters for the High Intensity Approach Lighting System with Sequenced Flashing Lights (ALSF-2), its associated infrastructure, and co-located FAA facilities outside of the Runway and Taxiway Object Free Areas (ROFA and TOFA) |
| (4) New Infill Pavement Near Taxiways P, 'Future P', and T | <ul style="list-style-type: none"> • Rebuild Taxiway E 300 feet to the east • Reposition VSR • (D-101) Demolish and (P14) relocate existing Airfield Lighting Vault (ALV) • (D-101A) Demolish and relocate Glycol Pump Control Building • Provide new infrastructure from the Airport Traffic Control Tower (ATCT) for software upgrades |
| (7) Isolation / RON Apron Construction | <ul style="list-style-type: none"> • Reconfigure ARFF access road around the apron area • Install blast fence |
| (8) Runway 28 Deicing Pad Expansion | <ul style="list-style-type: none"> • Relocate blending station and glycol storage tank |
| (12) Relocate Taxiway H | <ul style="list-style-type: none"> • Demolish existing Taxiway H exit pavement • Re-designate Taxiway H segment adjacent to Runway 15R deicing pad pavement |

Table 2
 Connected Actions

| Project Name | Anticipated Connected Actions ¹ |
|---------------------------------------|---|
| (18) Runway 15R Deicing Pad Expansion | <ul style="list-style-type: none"> • (P40) Relocate Glycol Storage/Truck Staging, including (D-173) demolition of the existing building • (P41) Provide new area for snow dumping • (P148) Provide Taxicab Support Building at Former Hotel Site, including taxi / bus staging area • (D-167) Demolish Hudson General Bus Storage and (D-148) demolish existing taxi/bus staging area. • Relocate Airport Surface Detection System, Model X (ASDE-X) • Relocate Gate A1 • (D-271) Remove FAA Remote Receiver (RR) facility and demolish existing buildings (RR facility to be relocated to optimize RR signal as part of the Proposed Action) • (D-170) Demolish deicing control building |

Note: ¹ Anticipated Connected Actions include those specifically identified on the 2015 ALP (ALP project number provided), as well as additional actions required to implement the Proposed Action projects.

MDOT MAA prepared an Updated DEA/Section 4(f) Determination to assist the Federal Aviation Administration (FAA) in evaluating potential environmental effects resulting from the aforementioned proposed improvements. The Updated Draft EA was completed in accordance with the National Environmental Policy Act of 1969 (NEPA), which requires environmental review of proposed Federal actions. The MDOT MAA is requesting a revision to the Airport Layout Plan (ALP) and is proposing improvements at BWI Marshall Airport that would be eligible for Federal funding, which are both considered Federal actions.

In addition to NEPA, the Updated DEA/Section 4(f) Determination was prepared in accordance with the Council on Environmental Quality implementing regulations [(CEQ); 40 Code of Federal Regulations (CFR) 1500-1508]; *FAA Order 1050.1F, Environmental Impacts: Policies and Procedures*; *FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*; and all applicable special purpose laws, e.g., Section 106 of the National Historic Preservation Act. The Updated DEA/Section 4(f) Determination will also satisfy the requirements of the Maryland Environmental Policy Act (MEPA) (Annotated Code of Maryland, Natural Resource Article, 1-301 to 1-305). Per the MDOT regulations to implement MEPA, an environmental effects report will not be required however a MEPA environmental checklist will be included in the Final EA/Section 4(f) Determination for confirmation of such.

Purpose and Need

The purpose of implementing the Proposed Action is to meet various FAA design standards, enhance airfield safety and efficiency, accommodate existing and anticipated passenger demand, and improve customer service at BWI Marshall Airport. The Proposed Action includes those improvements required to accommodate the projected activity levels through 2022.

Alternatives Carried Forward

Various potential alternatives were identified to meet the needs at BWI Marshall Airport. These alternatives were screened and either eliminated from further consideration or carried forward for environmental evaluation. Retained component alternatives were combined to form three overall-airport alternatives; the 2015 ALP Alternative, the Other Action Alternative (Sponsor's Preferred Alternative), and the No Action Alternative.

The 2015 ALP Alternative includes the actions identified as the Phase I Improvements on the BWI Marshall ALP as conditionally approved by FAA in April 2015. The 2015 ALP Phase I Improvements are those actions required to meet BWI Marshall's needs through 2022.

The Other Action Alternative (Sponsor's Preferred Alternative) is the 2015 ALP Alternative modified to reduce potential impact on environmental resources and/or modify the action shown on the 2015 ALP as a result of additional planning efforts and considerations during the development of the Updated DEA/Section 4(f) Determination.

The No Action Alternative represents BWI Marshall Airport in its current state without any proposed improvements. The Airport would remain in its current configuration and none of the proposed improvements would be implemented.

IMPACTS TO RESOURCES/USES OF THE COASTAL ZONE: MDOT MAA has determined the Proposed Action affects the land or water uses or natural resources of Maryland in the following manner. Where impacts are different between the two Proposed Action Alternatives carried forward, it is noted within the section.

- A. Air Quality: None of the pollutants/precursors for which there are *de minimis* levels (NO_x, VOC, and SO₂) would exceed the threshold levels in any year for either Proposed Action Alternative, even when combining the project-related Airport operations emissions and construction emissions in 2021. As a result, the General Conformity regulations do not require a conformity determination and it can be presumed that the emissions would not cause or contribute to a violation of or exceed the NAAQS for O₃ (precursors NO_x and VOC) or SO₂ and therefore would not result in a significant impact. Because the differences in pollutant levels between the Action Alternatives and No Action Alternative are minor, an emissions dispersion analysis is not necessary to demonstrate emissions would meet the NAAQS for all criteria pollutants. (Section 5.1 of the Updated DEA/Section 4(f) Determination)
- B. Biological Resources: The Proposed Action Alternatives would not cause long-term or permanent loss of state or federally-listed plant or wildlife species. The removal of several large tracts of trees on-airport would reduce wildlife attractants on the Airport. For the tree removal off-airport, the property will be allowed to regenerate and/or be replanted with low-growing tree species thereby replacing the lost habitat with different, yet comparable, vegetation for unlisted plants and wildlife. As requested through consultation with the MDNR, appropriate mitigation would be applied to tree removal in the area designated as Wetlands of Special State Concern (WSSC), as has been done in the past, yielding a determination of no adverse effect on this system.

In response to consultation with MDNR Environmental Review Program (MDNR ERP), MDOT MAA will adhere to time of year restrictions (March 1 through June 15) for work within Stony Run, Cabin Branch and Sawmill Creek (*See Appendix H, Attachment 5 of Updated DEA/Section 4(f) Determination*). MDOT MAA will also apply sediment and erosion control measures to upland areas during construction to protect anadromous finfish and other fish species.

Preliminary consultation with USFWS Chesapeake Bay Field Office (CBFO), via the IPaC Official Species List, indicated that there were no critical habitats or national wildlife refuges or fish hatcheries within the Study Area; however federally threatened swamp pink (*Helonias bullata*) should be considered, as known populations exist in the project area. A Biological Assessment was completed in January 2020. A "Not Likely to Adversely Affect" determination for swamp pink was received from USFWS on 2/19/20. (**Attachment 1**). The results of all consultation will be included within the Final EA/Section 4(f) Determination.

Table 3 compares the potential impacts to biological resources for the 2015 ALP Alternative and the Sponsor's Preferred Alternative. The Sponsor's Preferred Alternative reduces total forest clearing by selective harvesting of individual tree obstructions.

Table 3
Comparison of 2015 ALP Alternative and Sponsor's Preferred Alternative
Impacts to Biological Resources

| | 2015 ALP Alternative | Sponsor's Preferred Alternative |
|--|----------------------|---------------------------------|
| Biological Resources | | |
| Forest Clearing | 219.38 ac | 83.00 ac |
| Individual Trees Removed Off-Airport | 1,147 trees | 1,102 trees |
| Individual Trees Removed On-Airport | 355 trees | 1,228 trees |
| <i>Mitigation: Placement of MDNR Forest Conservation Easements on MDOT MAA-owned land.</i> | | |

Source: JMT Analysis, 2019.

Mitigation - MDOT MAA calculated forest mitigation requirements by completing MDNR Forest Conservation Worksheets for individual projects. As the Forest Conservation Act (FCA) applies to any project over 40,000 square feet (regardless of whether forest resources are present), mitigation requirements were calculated for all projects and are presented in Tables 5.2.4 and 5.2.5 of the Updated DEA/Section 4(f) Determination, for the 2015 ALP Alternative and Sponsor's Preferred Alternative, respectively. See *Appendix H, Attachment 6* of the Updated DEA/Section 4(f) Determination for the Forest Conservation mitigation worksheets for each project.

No portions of the proposed projects are within designated Chesapeake Bay Critical Area, and therefore no additional mitigation for impacts to Forest Interior Dwelling Species (FIDS) habitat is required.

MDOT MAA proposes to meet forest mitigation requirements for individual projects through placement of MDNR Forest Conservation Easements on MDOT MAA-owned forests within and surrounding the Stony Run WSSC. Due to the high quality of these resources, MDNR Forest Service has granted three acres of credit for every one acre placed under easement. MDOT MAA also has additional forested parcels that could be placed under Forest Conservation Easements as necessary; however, only one acre of credit will be granted for every one acre placed under easement.

No mitigation under Maryland's FCA is required for removal of forested areas or individual tree obstructions that occur within FAR Part 77 primary, approach, departure, and transitional surfaces (COMAR 5-1602(b)(11)).

Once mitigation measures are taken into consideration and implemented, neither of the Proposed Action Alternatives would have significant impacts on biological resources. (Section 5.2 of the Updated DEA/Section 4(f) Determination)

- C. Climate: Potential impacts to climate related to airport operations and construction emissions of GHGs were identified and evaluated for the Proposed Action Alternatives. The level of CO₂e airport operation emissions increases between 2022 and 2027, and between the No Action and Proposed Action Alternatives. This relatively small increase in GHG emissions in the Proposed Action Alternatives is due to the additional run-up operations modeled at the new Airline Maintenance Facility. Emissions of CO₂e would increase due to construction activities during the years 2019-2022. However, this would

only be for the short term and the projects would have no long-term impacts to CO₂e emissions.

Because the Proposed Action Alternatives represents such a small amount of U.S. GHG emissions, and given the related uncertainties involving the assessment of such emissions regionally and globally, the incremental contribution of the Proposed Action Alternatives to U.S. and global GHG emissions cannot be adequately assessed given the current state of the science and assessment methodology. (Section 5.3 of the Updated DEA/Section 4(f) Determination)

Coastal Resources: The Proposed Action Alternatives would result in impacts to wetlands, waterways, surface waters, and forests, however the level of impact can be reduced to non-significant as summarized in Table 3, Impacts to Biological Resources, and Table 5, Impacts to Water Resources.

Mitigation - To meet the FCA requirements, MAA would mitigate the forest impacts through the placement of DNR Forest Conservation Easements on MDOT MAA property. The nontidal wetlands, waterways, and floodplain impacts will require authorization from the Wetlands and Waterways Program. Appropriate mitigation for these impacts will be determined as part of the permit application review process. (Section 5.4 of the Updated DEA/Section 4(f) Determination)

- D. Department of Transportation Act: Section 4(f) Resources: The 2015 ALP Alternative includes a *de minimis* impact to Andover Park, as well as to the BWI Trail where a proposed vehicle service road (VSR) will need to cross. Two temporary occupancies to the trail are also possible during construction. A request for a *de minimis* concurrence was sent to Anne Arundel County Department of Recreation and Parks (DRP) for impacts to Andover Park; concurrence was received March 24, 2017. *De minimis* concurrence requests were also sent to DRP for concurrence that the proposed improvements would not adversely affect the BWI Trail; DRP responded on August 20, 2018 (VSR construction) and January 23, 2019 (Airline Maintenance Facility) with concurrence that the temporary impacts to the BWI Trail related to construction activity of proposed facilities would not adversely affect the BWI Trail. The FAA will make a final determination on potential impacts to Andover Park and the BWI Trail after public review and comment on the Draft Section 4(f) Determination.

The Sponsor's Preferred Alternative would result in the same potential impacts to Section 4(f) resources as with the 2015 ALP Alternative, in addition to temporary impacts from proposed utility connections under the BWI Trail associated with the Relocated Fire Training Facility and New Airline Maintenance Facility. As a result of the additional project planning for the relocated fire training facility and Airline Maintenance Facility, an updated *de minimis* concurrence letter was sent to Anne Arundel County DRP on December 20, 2018 and again on October 15, 2019 to indicate the Sponsor's Preferred Alternative impacts to the BWI Trail. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on January 23, 2019 and November 22, 2019. (Section 5.5 of the Updated DEA/Section 4(f) Determination)

- E. Farmlands: There would be no conversion of existing farmland or other agricultural uses to non-agricultural uses; therefore, neither Proposed Action Alternative would have a

significant impact on farmland. No mitigation would be required. (Section 5.6 of the Updated DEA/Section 4(f) Determination)

- F. Hazardous Materials: Several sites on, or near the Airport were identified that are known, or have the potential, to involve hazardous materials, hazardous waste, environmental contamination and/or other regulated substances. These sites could have an effect on the proposed improvements at BWI Marshall Airport. Figure 5.7-1 of the Updated DEA/Section 4(f) Determination illustrates each of the potential sites in relation to the proposed improvement projects at BWI Marshall Airport, which are discussed in Section 5.7.4.1 of the Updated DEA/Section 4(f) Determination. No significant environmental impacts related to hazardous materials and solid waste would be expected with either Proposed Action Alternative and no mitigation would be required.

Mitigation – The design and use of the proposed improvement projects will adhere to federal and state regulations as well as best practices pertaining to the use of hazardous materials, petroleum storage and waste disposal. This includes precautionary measures aimed at preventing and minimizing impacts to surface and ground waters, soil and air. (Section 5.7 of the Updated DEA/Section 4(f) Determination)

- G. Historical, Architectural, Archaeological and Cultural Resources: *Architectural Resources* - Impacts were considered only for the Benson-Hammond House (AA-118), which is listed on the National Register of Historic Places (NRHP). It was determined that the Proposed Action would have no effect on the historic property. The Maryland Historical Trust (MHT) concurred with this determination of no effect on December 13, 2019 (See *Appendix J, Attachment 3* of the Updated DEA/Section 4(f) Determination).

Archaeological Resources - Subsurface historical resources, or archaeological resources, within the Area of Potential Effect (APE)-Direct include ten sites which have been determined not eligible for the NRHP.¹ Thus, while work would affect sites 18AN366, 18AN705, 18AN778, 18AN1150, 18AN1427, 18AN1591, 18AN1594, 18AN1595, 18AN1596, and 18AN1597, impacts to these sites would not be deemed significant given the amount of prior disturbance which has already affected the integrity of these sites and the fact that these resources are not eligible for the NRHP. Potential impacts were considered for four archaeological resources within the APE-Direct that have not received an MHT determination: Sites 18AN23, 18AN1011, 18AN1428, and 18AN1488. No formal determination of eligibility was provided by MHT for these sites, however, recommendations of “not eligible” were made to MHT on Sites 18AN1011 and 18AN1428. No recommendation was made on Site 18AN23 as the proposed improvements were revised to avoid the site, or on 18AN1488 because the site was determined to be outside the APE-Direct.

In summary, no archaeological or architectural resources would be adversely impacted by either Proposed Action Alternative, and therefore would have no significant impact.

¹ Maryland Historical Trust, *MEDUSA: Maryland's Cultural Resource Information System*, 2018, <https://mht.maryland.gov/secure/medusa>.

Mitigation - No archaeological resources would be adversely affected by the Proposed Action Alternatives; no archaeological mitigation would be necessary. If unmarked burial sites are encountered in the vicinity of Site 18AN1011 or Site 18AN1592, both cemetery sites, then staff would stop work and follow the procedures established in the BWI Marshall Airport Historic Preservation Plan (HPP) and required by MHT regulations. (Section 5.8 of the Updated DEA/Section 4(f) Determination)

- H. Land Use: No significant impacts related to land use are expected with the Proposed Action Alternatives and no mitigation would be required. The majority of the 2015 ALP Alternative projects are located within existing Airport property, with the exception of vegetation obstruction removal located off-airport property, and connections to existing utilities off-airport. The 2015 ALP Alternative is consistent with the Airport's 2015 ALP, as well as local land use plans.

The differences between the Sponsor's Preferred Alternative and 2015 ALP Alternative as it relates to land use, is the minimization of obstruction removal through selective tree clearing in environmentally sensitive areas. The selective tree clearing would minimize impacts to wetlands and prevent the creation of newly open waters associated with clear cutting in wetland areas. This would also limit the creation of new wildlife attractants to open waters.

No significant impacts related to land use are expected with either Proposed Action Alternative and no mitigation would be required. (Section 5.9 of the Updated DEA/Section 4(f) Determination)

- I. Natural Resources and Energy Supply: The anticipated increase in additional resources and energy consumption required by the Proposed Action Alternatives would not amount to a significant percentage of the total Airport use. The proposed improvements would not create a substantial increase in demand for local resources and utilities or strain the capacity/supply of these resources/ utilities to the meet the additional demand. The proposed projects would not involve the use of any unusual or scarce resources nor cause a demand for the use of any unusual or scarce resources that are in short supply

The Sponsor's Preferred Alternative also includes two new connections to Anne Arundel County utility lines: a water line from the proposed Airline Maintenance Facility, under Aviation Blvd, to connect into an existing County water line; and a potential sanitary sewer connection from the Relocated Fire Training Facility, under Aviation Blvd, to connect into the County's sanitary system. The County has sufficient capacity/supply to provide utility connection for these proposed projects. No significant impacts related to natural resources or energy supply are expected with either Proposed Action Alternative and no mitigation would be required. (Section 5.10 of the Updated DEA/Section 4(f) Determination)

- J. Noise and Noise-Compatible Land Use: Compared with the No Action Alternative, the noise contours in the Proposed Action Alternatives expand towards north of Runway 10

where the run-up operations at the proposed Airline Maintenance Facility are expected to occur, as shown in Figures 5.11-1 and 5.11-2 of the Updated Draft EA. The figures show that there is little difference between the 65 DNL contours for the Proposed Action Alternatives when compared to the No Action Alternative.

Additional analysis was undertaken to determine the differences between the Action Alternatives and the No Action Alternatives related to noise-sensitive land uses. The additional analysis determined that no additional housing units or residents exist between the No Action and Proposed Action Alternatives (for 2022 and 2027), and therefore the threshold for significant noise impact was not exceeded for any of the alternatives considered, and no mitigation would be required. (Section 5.11 of the Updated DEA/Section 4(f) Determination)

- K. Socioeconomics, Environmental Justice and Children's Environmental Health and Safety Risks: *Socioeconomic* – The Proposed Action Alternatives would not result in a significant impact to socioeconomics (including environmental justice and children's health and safety risks).

On-Airport Traffic Impacts - The Proposed Action Alternatives include Terminal Roadway Widening and Access Improvements, and the Upper Level Roadway Widening at Concourse E. These improvements would help improve on-airport traffic congestion and serve the increased traffic and growth anticipated into the future with a quality level of service.

Off-Airport Traffic Impacts - The traffic analysis indicates that the increase of traffic volumes in the Proposed Action Alternatives would result in virtually no changes compared to the No Action Alternative for either 2022 or 2027 conditions. Four intersections would operate at LOS E or F during the AM and PM peak hours in the 2027 No Action Alternative. These intersections are along Aviation Blvd/MD 170 at Dorsey Rd/MD 176 – West, Amtrak Way/MD 995 and Air Cargo Dr, and Stoney Run Rd at New Ridge Rd. Intersection 1 (Aviation Blvd/MD 170 at Dorsey Rd/MD 176 – West) also operates at LOS E or F in the 2022 No Action Alternative. All other intersections operate within acceptable thresholds, meaning all intersections perform at an acceptable LOS D or better.

Mitigation (Off-Airport Traffic) - To address the four intersections operating at LOS E or F during the 2027 No Action Alternative AM or PM peak hours, mitigations measures such as signal split optimization and restriping of an approach could be implemented. Authority to implement improvements to off-airport intersections falls to the roadway owner – either Anne Arundel County or the State Highway Administration (SHA). During design, MDOT MAA would consult with the County and SHA for proposed facilities that would add a new entrance or increase peak hour traffic at an existing entrance within County or SHA right of way. MDOT MAA must obtain a permit to add or modify an entrance within County or SHA right of way. If required, signal timing improvements would be implemented by the County or SHA.

See *Appendix A, Attachment 3* of the Updated Draft EA for details on the potential mitigation at each intersection. (Section 5.12 of the Updated DEA/Section 4(f) Determination)

- L. Visual Effects: No significant impacts related to light emissions or visual resources / visual character are expected with the Proposed Action Alternatives. The only difference between the Sponsor's Preferred Alternative and 2015 ALP Alternative as it relates to visual resources and character, is the minimization of obstruction removal through selective tree clearing on-airport property under the Sponsor's Preferred Alternative. As a result, changes to visual resources may differ slightly from the 2015 ALP Alternative. No significant impacts to visual character and visual resources are expected with either Proposed Action Alternative. (Section 5.13 of the Updated DEA/Section 4(f) Determination)
- M. Water Resources: **Table 5** summarizes the impacts to wetlands, wetland buffers, streams and the 100-year floodplain associated with the 2015 ALP Alternative projects. Six of the proposed improvement projects could potentially impact wetlands, wetland buffers, streams or 100-year floodplains. Cumulatively, implementation of all the 2015 ALP Alternatives would result in temporary or permanent impacts to 5.44 acres of nontidal wetlands, 6.28 acres of wetland buffers, 838 linear feet of streams, and 7.07 acres of 100-year floodplains. The 2015 ALP Alternative projects would result in an increase in stormwater runoff from the additional impervious surfaces proposed. Based on preliminary engineering design, the 2015 ALP Alternative projects would result in a net increase of approximately 86.0 acres of impervious surface.

As shown in Table 5, cumulatively, implementation of the Sponsor's Preferred Alternative projects would result in temporary or permanent impacts to 0.57 acres of non-tidal wetlands, 1.99 acres of non-tidal wetland buffers, 1,003 linear feet of streams, and 0.33 acres of mapped 100-year floodplain. The Sponsor's Preferred Alternative would not result in a significant impact to wetlands, streams, or floodplains. Mitigation would be provided for all permanent impacts to wetlands and streams, see Section 5.14.5 for details. The Sponsor's Preferred Alternative projects would result in an increase in stormwater runoff from the additional impervious surfaces proposed. Based on preliminary engineering design, the Sponsor's Preferred Alternative projects would result in a net increase of approximately 95.6 acres of impervious surface.

Table 5
Comparison of 2015 ALP Alternative and Sponsor's Preferred Alternative
Impacts to Water Resources

| | 2015 ALP Alternative | Sponsor's Preferred Alternative |
|---|-----------------------------|--|
| Water Resources | | |
| Wetlands | 5.44 ac. (237,077 sf) | 0.57 ac. (24,994 sf) |
| Wetland Buffers | 6.28 ac. (273,672 sf) | 1.99 ac. (86,657 sf) |
| Stream Channel | 838 lf | 1,003 lf |
| 100-Year Floodplain | 7.07 ac. | 13 Trees (0.33 ac) |
| <i>Mitigation: Compensatory mitigation for wetland (including waters of the US) impacts through placement of Deed of Restrictive Covenants on MDOT MAA-owned parcels within the Stony Run Wetlands of Special State Concern. Stormwater management techniques will be employed for impacts to water quality (surface waters). Erosion and Sediment Control Plans will be developed in accordance with MDE guidelines.</i> | | |
| Net Increase in Impervious Area | 86.01 ac. | 95.63 ac. |

Source: JMT analysis, 2019.

Mitigation – Wetlands and Streams: Mitigation requirements are determined by MDE and USACE on a case-by-case basis and therefore cannot be firmly determined at this time; however, based on these typical mitigation ratios and the impacts detailed in this EA, potential mitigation for the 2015 ALP Alternative would be to purchase credits to offset the needed 10.7 acres of wetland and 838 linear feet of stream mitigation, and the Sponsor's Preferred Alternative would be to purchase credits to offset the needed 0.9 acres of wetland and 1,003 linear feet of stream mitigation.

Mitigation - Surface Waters: Impacts to water quality resulting from an increase in impervious surface would be avoided and mitigated using stormwater management techniques. Stormwater treatment requirements for the proposed projects were determined in accordance with MDE's Stormwater Management Guidelines for State and Federal Projects. See *Appendix L, Attachment 1* of the Updated DEA/Section 4(f) Determination for details on stormwater treatment requirements by project. At the time of design for each project, stormwater design will adhere to MDE guidelines and regulations. A Stormwater Management Concept Report will be provided during project design.

Mitigation - Floodplains: Mitigation measures to minimize potential impacts to surface waters and floodplains include designing facilities above the base flood elevation; minimizing fill placed in floodplains and wetlands; construction controls to minimize erosion and sedimentation; restoring vegetation on disturbed areas to prevent soil erosion following project completion; designing facilities to allow adequate flow circulation and preserve free, natural drainage; comply with special flood-related design criteria; controlling run off, while ensuring the run-off control measures does not attract wildlife hazardous to aviation; controlling waste and spoils disposal to prevent contamination of

ground and surface water; and Section 404 and 401 permit terms and conditions for minimizing and compensating for impacts to surface waters. An Erosion and Sediment Control Plan would be developed in accordance with MDE guidelines and implemented during construction activities to minimize erosion and sedimentation and its impacts on surface waters.

Permitting – MDOT MAA must receive authorization from both MDE and USACE for temporary and permanent impacts to wetlands and other waters of the U.S., and MDE for temporary and permanent alterations to 25-foot wetland buffers (and 100-foot WSSC buffers) and 100-year floodplains. In consultation with resource agencies and due to the unknown design and construction schedule for all proposed improvements impacting wetlands, MDE and USACE directed MDOT MAA to submit individual JPAs at the final design stage of a project. (Section 5.14 of the Updated DEA/Section 4(f) Determination)

Analysis of Applicable Enforceable Coastal Policies

A. General Policies

1. Core Policies

The Proposed Action is consistent with the Core Policies identified. There are no potential significant impacts to air quality or noise. The project does not involve State wild lands, State parks or forests, State reserves, scenic preserves, parkways, or historical monuments. The safety, order, and natural beauty of recreational areas (e.g., BWI Trail and Andover Park) would not be impacted, as discussed in *Section 5.5, DOT Act: Section 4(f) Resources* of the Updated DEA/Section 4(f) Determination.

Water appropriation would be reasonable in relation to the anticipated level of use and would not have unreasonable adverse impacts on water resources or other users of the waters of the State. There are no scenic rivers or waterways impacted by the project. The project elements do not involve projects east of the dune line, Assateague Island, impacts to the shoreline, Port of Baltimore or the Outer Continental Shelf.

Appropriate precautions would be undertaken prior to and during the construction of the proposed improvements; no significant environmental impacts related to hazardous materials and solid waste would be expected. Potential impacts of the alternatives on hazardous materials and hazardous waste were identified and evaluated as part of *Section 5.7, Hazardous Materials, Pollution Prevention and Solid Waste* of the Updated DEA/Section 4(f) Determination.

Any soil erosion due to proposed improvements would be prevented by restoring vegetation on disturbed areas. An Erosion and Sediment Control Plan would be developed in accordance with MDE guidelines and implemented during construction activities to minimize erosion and sedimentation and its impacts on surface waters. Soil and sediment control measures are discussed in *Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination.

2. Water Quality

The Proposed Action is consistent with the Water Quality policies identified. Stormwater treatment would provide water quality and quantity control. Pond B3 would be fully impacted and

would be removed. The loss of water quality treatment provided by Pond B3 would be included in stormwater treatment requirements during project design.

Stormwater management will ensure all water quality standards established by Federal, state, and local regulatory agencies are met, and that no public drinking water supply will be adversely affected. Stormwater runoff from the proposed project sites would be contained in the storm drain system and treated for water quality in stormwater management facilities (to be determined upon final design). The proposed improvements would not result in a significant impact to surface water quality. Potential impacts of the alternatives on water quality were identified and evaluated as part of *Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination.

3. Flood Hazards

The Proposed Action is consistent with the Flood Hazards policies identified. Potential impacts to wetlands, streams, floodplains, water quality and groundwater were identified and evaluated. Cumulatively, implementation of all the projects in the 2015 ALP Alternative and Sponsor's Preferred Alternative would result in temporary or permanent impacts to 7.07 acres and 0.33 acres of 100-year floodplains, respectively.

The alternatives would not result in a significant impact to floodplains as mitigation would be provided for all permanent impacts to wetlands and streams. Run-off from all proposed projects ultimately drains into the floodplains associated with either Kitten Branch, Stony Run, Sawmill Creek or Cabin Branch. Stormwater management will be implemented in accordance with MDE's Stormwater Management Guidelines for State and Federal Projects to control run-off and ensure nearby wetlands, streams, and floodplains are not adversely impacted. While proposed projects are within and adjacent to the floodplains, resulting in a floodplain encroachment, the projects would not be considered significant impacts as there would be no impact to the natural and beneficial value of the floodplains. Potential impacts of the alternatives on floodplains were identified and evaluated as part of *Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination.

B. Coastal Resources

1. The Chesapeake and Atlantic Coastal Bays Critical Area

BWI Marshall Airport is not located within a Critical Area.

2. Tidal Wetlands

No tidal wetlands are impacted by the Proposed Action.

3. Non-Tidal Wetlands

The Proposed Action is consistent with the Non-Tidal Wetlands policies identified. The potential non-tidal wetland impacts due to the Proposed Action are consistent with the conditions set forth. The Proposed Action Alternatives have no practicable alternatives; adverse impacts are first avoided, then minimized based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions; comprehensive watershed management plans are considered.

Potential impacts to wetlands, streams, floodplains, water quality and groundwater were identified and evaluated as part of the Updated DEA/Section 4(f) Determination. Cumulatively, implementation of all the 2015 ALP Alternatives would result in temporary or permanent impacts to 5.44 acres of non-tidal wetlands and 6.28 acres of wetland buffers. Implementation of the Sponsor's Preferred Alternative projects would result in temporary or permanent impacts to 0.57 acres of non-tidal wetlands and 1.99 acres of non-tidal wetland buffers.

The Sponsor's Preferred Alternative includes a greater net increase in impervious area and a greater amount of stream channel impacts as compared to the 2015 ALP Alternative. However, the Sponsor's Preferred Alternative reduces total wetland and floodplain impacts by selective harvesting of individual tree obstructions within environmentally sensitive areas and through environmentally preferred project planning.

With mitigation, the Proposed Action does not cause or contribute to an individual or cumulative effect that degrades: aquatic ecosystem diversity, productivity, and stability; plankton, fish, shellfish, and wildlife; recreational and economic values, public welfare; surface water quality; or ground water quality. Mitigation would be provided for all permanent impacts to wetlands.

Mitigation requirements are determined by MDE and USACE on a case-by-case basis and therefore cannot be firmly determined at this time; however, based on typical mitigation ratios and the impacts detailed in the Updated DEA/Section 4(f) Determination, potential mitigation for the 2015 ALP Alternative would be to purchase credits to offset the needed 10.7 acres of wetland and 838 linear feet of stream mitigation, and the Sponsor's Preferred Alternative would be to purchase credits to offset the needed 0.9 acres of wetland and 1,003 linear feet of stream mitigation.

MDOT MAA is proposing to meet most to all wetland and stream mitigation off-site, through the use of wetland mitigation banking credits in the Gunpowder-Patapsco watershed (USGS 0206003). There are also options for MDOT MAA to develop mitigation sites on parcels that are currently owned by MDOT MAA. Potential impacts of the alternatives to non-tidal wetlands were identified and evaluated as part of *Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination.

4. Forests

The Proposed Action is consistent with the Forests policies identified. The potential forest impacts due to the Proposed Action are consistent with the conditions set forth.

The Proposed Action will adhere to the FCA² and its implementing regulations. Mitigation requirements were calculated for all projects and are presented in Tables 5.2.4 and 5.2.5 of the Updated Draft EA, for the 2015 ALP Alternative and Sponsor's Preferred Alternative, respectively. See *Appendix H, Attachment 6* of the Updated DEA/Section 4(f) Determination for the Forest Conservation mitigation worksheets for each project.

² The Forest Conservation Act and its implementing regulations, as approved by NOAA, are enforceable policies. Generally, before developing an area greater than 40,000 square feet, forested and environmentally sensitive areas must be identified and preserved whenever possible. If these areas cannot be preserved, reforestation or other mitigation is required to replace the values associated with them.

MDOT MAA calculated impacts to forest stands using worst-case scenario limits of disturbance (LODs) for individual projects independently. Impacts associated with vegetative obstruction removals were quantified in acres and individual tree obstructions. The total acres of forest clearing, on-airport tree removal and individual on-airport tree obstructions on airport property and off-airport property for both of the Proposed Action Alternatives are outlined in *Impacts to Resources/Uses of the Coastal Zone, Section B, Biological Resources* and presented in Table 3. Compared to the 2015 ALP Alternative, the Sponsor's Preferred Alternative reduces total forest clearing by selective harvesting of individual tree obstructions.

As discussed in *Section B, Biological Resources*, Forest Conservation Plans (FCPs) will be submitted to MDNR Forest Service for approval based on final design for all projects with over 40,000 square feet of disturbance in order for MDNR to issue grading permits. Because off-airport impacts are limited to individual tree removals on private property, grading permits will not be required, and therefore, preparation of individual FCPs will not be necessary.

5. Historical and Archaeological Sites

The Proposed Action is consistent with the Historical and Archaeological Sites policies. Coordination with MHT has been conducted for the Proposed Action Alternatives. The potential impacts due to the Proposed Action are consistent with the conditions set forth. No human remains nor funerary objects would be removed from a burial site or cemetery. Funerary objects would not be willfully destroyed, damaged, or defaced. As discussed in *Impacts to Resources/Uses of the Coastal Zone, Section G., Historical, Architectural, Archaeological and Cultural Resources*, if unmarked burial sites are encountered, work would stop and follow the procedures established in the BWI Marshall Airport HPP and required by MHT regulations.

6. Living Aquatic Resources

The Proposed Action is consistent with the Living Aquatic Resources policies and the conditions set forth. MDOT MAA consulted with MDNR Wildlife Heritage Service (WHS) (see *Appendix H, Attachment 2* of the Updated DEA/Section 4(f) Determination) and Environmental Review Program (see *Appendix H, Attachment 5* for fisheries resources review), and USFWS (see *Appendix H, Attachment 1*), to document the presence of any state- or federally-listed threatened or endangered species as well as the presence of any critical habitats designated for those species.

No State listed endangered or threatened species of fish or wildlife would be taken without an Incidental Take Permit;. Any projects in or adjacent to non-tidal waters that could adversely affect aquatic or terrestrial habitat do not have reasonable alternatives. Any impacts to habitat include mitigation, as discussed in *Section 5.2, Biological Resources*, and *Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination. In response to consultation with MDNR Environmental Review Program (MDNR ERP), MDOT MAA will adhere to time of year restrictions (March 1 through June 15) for work within Stony Run, Cabin Branch and Sawmill Creek, as stated in an email from MDNR ERP, dated October 7, 2016 (*Appendix H, Attachment 5*). MDOT MAA will also apply sediment and erosion control measures to upland areas during construction to protect anadromous finfish and other fish species.

No submerged aquatic vegetation (SAV) would be impacted by the Proposed Action Alternatives; no oysters or oyster bars of any type would be impacted by the Proposed Action; no organisms would be transferred or introduced to State waters; no nonnative aquatic organisms would be introduced into aquatic ecosystems; no live snakehead fish or viable eggs of snakehead fish of the Family Channidae would be imported, transported, or introduced into the State. No riparian forest buffers would be impacted by the Proposed Action.

Preliminary consultation with USFWS CBFO, via the IPaC Official Species List, indicated that there were no critical habitats or national wildlife refuges or fish hatcheries within the Study Area; however federally threatened swamp pink (*Helonias bullata*) should be considered, as known populations exist in the project area. A Biological Assessment was completed in January 2020. A "Not Likely to Adversely Affect" determination for swamp pink was received from USFWS on 2/19/20. (Attachment 1). The results of all consultation will be included within the Final EA/Section 4(f) Determination.

C. Coastal Uses

1. Mineral Extraction

There would be no mineral extraction associated with the Proposed Action.

2. Electrical Generation and Transmission

There would be no electrical generation or transmission associated with the Proposed Action.

3. Tidal Shore Erosion Control

There would be no impacts to tidal shores associated with the Proposed Action.

4. Oil and Natural Gas Facilities

There are no facilities on the Airport subject to Coastal Facilities Review Act.

5. Dredging and Disposal of Dredged Material

There would be no dredging or disposal of dredge material associated with the Proposed Action.

6. Navigation

There would be no navigational access, construction of facilities in navigable waters, or vessels operating on State waters associated with the Proposed Action.

7. Transportation

The Proposed Action is consistent with the Transportation policies. The social, economic, and environmental effects of the Proposed Action, including any effects to transportation facilities have been identified and alternative courses of action have been considered as part of the Updated Draft EA. The public has been involved throughout the process of planning the transportation projects as described in *Chapter 6, Public and Agency Involvement*, of the Updated DEA/Section 4(f) Determination.

The transportation development and improvement projects support the integrated nature of the transportation system, to include the removal of impediments to the free movement of individuals

from one mode of transportation to another. The Proposed Action includes improvements to multiple modes of transportation operations (e.g., airport, roadways) and the Updated DEA/Section 4(f) Determination addresses potential impacts (temporary and permanent) and mitigation to modes of transportation that have the potential to be affected by the Proposed Action improvements (e.g., BWI Trail).

The Proposed Action does not impact any private transit facilities or their operations. Access to and use of the transportation facilities by pedestrians and bicycle riders would be enhanced by the Proposed Action improvements. As discussed in *Chapter 2, Purpose and Need* of the Updated DEA/Section 4(f) Determination, a sky bridge for pedestrians would be implemented. Any changes to access or use of transportation facilities would be improved, or, if temporary, would be replaced in-kind. Best engineering practices regarding the needs of bicycle riders and pedestrians will be employed in all phases of transportation planning.

8. Agriculture

There are no agricultural land management practices or agricultural operations associated with the Proposed Action.

9. Development

The Proposed Action is consistent with the Development policies and the conditions set forth. All development would be designed to minimize erosion and keep sediment onsite. As discussed in *Chapter 5, Environmental Consequences* of the Updated DEA/Section 4(f) Determination, development would avoid and then minimize the alteration or impairment of non-tidal wetlands; minimize damage to water quality and natural habitats; minimize the cutting or clearing of trees and other woody plants; and preserve sites and structures of historical, archeological, and architectural significance and their appurtenances and environmental settings.

The Proposed Action development is located where the water supply system, sewerage system, and solid waste acceptance facilities are adequate to serve the proposed construction and all existing and approved developments in the service area have been taken into account. The water supply system, sewerage system, and solid waste acceptance facilities have been discussed in the Updated DEA/Section 4(f) Determination and the water supply system, sewerage system, and solid waste acceptance facilities on which the development would rely are capable of handling the needs of the proposed projects in addition to those of existing and approved developments. The existing sewage system is capable of handling the existing and reasonably foreseeable sewage flows or water demand.

The Proposed Action would not impact the Severn River Watershed thus no approval is required by the soil conservation district. Drinking water and water resources, stormwater management and wastewater treatment and disposal are discussed in *Chapter 5, Section 5.14, Water Resources* of the Updated DEA/Section 4(f) Determination.

Any industrial facilities would be sited and planned to ensure compatibility with other legitimate beneficial water uses, constraints imposed due to standards of air, noise and water quality, and provision or availability of adequate water supply and wastewater treatment facilities.

Lastly, the Proposed Action is located near available transit options, and is consistent with existing and proposed airport land uses.

10. Sewage Treatment

There would be no sewage treatment facilities associated with the Proposed Action. The Proposed Action is consistent with Sewage Treatment policies and the conditions set forth. Use of or connection to existing sewerage systems would conform to the county plan or revision or amendment of the County plan.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
<http://www.fws.gov/chesapeakebay>

February 19, 2020

Genevieve Walker
13873 Park Center Road
Suite 490S
Herndon, VA 20171

RE: "Not Likely to Adversely Affect" determination for swamp pink for BWI Marshall Proposed Improvements 2016-2020 in Anne Arundel County, Maryland

Dear Ms. Walker:

The U.S. Fish and Wildlife Service (Service) has reviewed your project information from the Service's Information for Planning and Consultation (IPaC) online system, as well as from your biological assessment, delivered on January 31, 2020. The comments provided below are in accordance with Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The purpose of this proposed project is to make improvements at BWI Marshall Airport; these improvements include realignment of taxiways, construction of new buildings, and removal of obstructions to navigable airspace. The federally threatened swamp pink (*Helonias bullata*) may be present within the project area, specifically within the Stony Run Wetlands of Special State Concern.

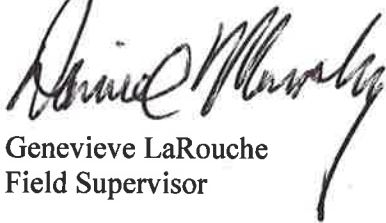
The proposed construction work is not in the vicinity of swamp pink and will not impact swamp pink. However, the proposed tree obstruction removal effort includes removal of trees in Stony Run wetland, where swamp pink has historically occurred and which currently contains suitable habitat. The proposed project includes a number of conservation measures to avoid and minimize impacts to swamp pink and its habitat. As long as the conservation methods described in the biological assessment are followed, the project is "not likely to adversely affect" swamp pink.

Except for occasional transient individuals, no other federally proposed or listed threatened or endangered species are known to exist within the project area. Should project plans change or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.



We appreciate the opportunity to provide information relative to fish and wildlife issues. Thank you for your interest in these resources. If you have any questions or need further assistance, please contact Kathleen Cullen of my staff at 410/573-4579 or kathleen_cullen@fws.gov.

Sincerely,



Genevieve LaRouche
Field Supervisor

Acting
for



Coastal Consistency Request Form

This request document, under the authority of the Maryland Coastal Zone Management Program, initiates information sharing and state-federal-industry coordination to ensure projects or activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations (15 C.F.R. Part 930) are consistent to the maximum extent practicable with Maryland's enforceable policies. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to facilitate the submission and timely review of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

* Required

1. Name of Project or Activity * Proposed ALP Phase I Improvements at BWI Marshall Airport

2. Name of Person Submitting Request *

Robin M. Bowie (MDOT MAA)

3. Federal Agency Contractor Name (if applicable)

Genevieve Walker

4. Federal Agency *

Federal Aviation Administration

5. County *

Anne Arundel

6. Address *

PO Box 8766,
BWI Airport, MD 21240

7. Email *

rbowie@bwiairport.com

8. Phone Number(s) *

410-859-7103

9. Please select the appropriate Federal Consistency Category: *Choose one**

Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)

Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)

Outer Continental Shelf Plans: Exploration, Development & Production Activities

(15 C.F.R. Part 930, Subpart E)

Federal Financial Assistance to State & Local Governments (15 C.F.R. Part 930, Subpart F)

10. Summary Description – Please describe the nature, areal extent and location of project or activity. Describe foreseeable effects on coastal resources and uses.

Proposed improvements include pavement rehabilitation, obstruction removal, terminal improvements, taxiway construction / relocation, helipad relocation, construction of aircraft maintenance facilities, vehicle service roadway construction, aircraft firefighting facility expansion, and fire training facility relocation. The location, discussed in the Updated Draft EA and Draft Section 4(f) Determination, includes BWI Marshall Airport and several off-property locations where obstruction removal is proposed. The foreseeable effects to coastal resources and uses are discussed in the Updated Draft EA and summarized as part of the attached Coastal Zone Management Act Federal Consistency Determination Review document prepared for this project. The Proposed Action Alternatives would result in impacts to wetlands, waterways, surface waters, and forests, however the level of impact can be reduced to non-significant as summarized in Table 3, Impacts to Biological Resources, and Table 5, Impacts to Water Resources in the attached Coastal Zone Consistency Documentation.



Coastal Consistency Request Form

11. Please select policy area checklists relevant to your project or activity:

Check all that apply:

- Core Policies (required for all projects and activities)
- The Chesapeake & Atlantic Coastal Bays Critical Area
- Tidal Wetlands
- Forests
- Historical & Archaeological Site
- Living Aquatic Resources
- Mineral Extraction
- Electrical Generation & Transmission
- Tidal Shore Erosion
- Oil & Natural Gas Facilities
- Dredging & Disposal of Dredge Materials
- Navigation
- Transportation
- Agriculture
- Development
- Sewage Treatment

12. Supporting Documentation. Please list all maps, diagrams, reports, letters and other materials below:

Coastal Zone Management Act (CZMA) Federal Consistency Documentation for the Proposed ALP Phase I Improvements at BWI Marshall Airport, Linthicum, Maryland, dated March 2020.

Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport and Appendices, dated February 2020. <http://www.marylandaviation.com/content/environmental/environmentaldocs.html>



Coastal Zone Management Program - Core Policies Checklist

Name of Project:

5.1. CORE POLICIES

5.1.1. Quality of Life

Quality of Life Policy 1- Air Quality. It is State policy to maintain that degree of purity of air resources which will protect the health, general welfare, and property of the people of the State. MDE (C9) Md. Code Ann., Envir. §§ 2-102 to -103.

Select appropriate response:

- Project will be consistent with Air Quality policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 2 – Noise. The environment shall be free from noise which may jeopardize health, general welfare, or property, or which degrades the quality of life. MDE (C9) COMAR 26.02.03.02.

Select appropriate response:

- Project will be consistent with Noise policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Quality of Life Policy 3– Protection of State Wild Lands. The unique ecological, geological, scenic, and contemplative aspects of State wild lands shall not be affected in a manner that would jeopardize the future use and enjoyment of those lands as wild. DNR (C7) Md. Code Ann., Nat. Res. §§ 5-1201, -1203.

Select appropriate response:

- Project will be consistent with State Wild Lands Protection policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 4 – Protection of State Lands & Cultural Resources. The safety, order, and natural beauty of State parks and forests, State reserves, scenic preserves, parkways, historical monuments and recreational areas shall be preserved. DNR (B1) Md. Code. Ann., Nat. Res. § 5-209.

Select appropriate response:

- Project will be consistent with Protection of State Lands & Cultural Resources policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 5 – Natural Character & Scenic Value of Rivers & Waterways. The natural character and scenic value of a river or waterway must be given full consideration before the development of any water or related land resources including construction of improvements, diversions, roadways, crossings, or channelization. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-405; COMAR 26.17.04.11.

Select appropriate response:

- Project will be consistent with policy protecting Natural Character & Scenic Value of Rivers & Waterways.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Quality of Life Policy 6 –Natural Flow of Scenic & Wild Rivers. A dam or other structure that impedes the natural flow of a scenic or wild river may not be constructed, operated, or maintained, and channelization may not be undertaken, until the applicant considers alternatives less harmful to the scenic and wild resource. Construction of an impoundment upon a scenic or wild river is contrary to the public interest, if that project floods an area of unusual beauty, blocks the access to the public of a view previously enjoyed, or alters the stream's wild qualities. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-406; COMAR 26.17.04.11.

Select appropriate response:

- Project will be consistent with policy protecting Natural Flow of Scenic & Wild Rivers.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 7 – Atlantic Coast Development. Any land clearing, construction activity, or the construction or placement of permanent structures is prohibited within the Beach Erosion Control District except the construction and installation of a qualified submerged renewable energy line, if the project does not result in any significant permanent environmental damage to the Beach Erosion Control District and is not constructed or installed within the Assateague State Park, and any project or activity specifically for storm control, beach erosion and sediment control, or maintenance projects designed to benefit the Beach Erosion Control District. MDE/DNR (B1) Md. Code Ann., Nat. Res. § 8-1102.

Select appropriate response:

- Project will be consistent with policy ensuring Environmentally Beneficial Atlantic Shoreline Development.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Quality of Life Policy 8 – Integrity & Natural Character of Assateague Island. Activities which will adversely affect the integrity and natural character of Assateague Island will be inconsistent with the State's Coastal Management Program, and will be prohibited. MDE/DNR (B1) Md. Code. Ann., Nat. Res. §§ 5-209, 8-1102.

Select appropriate response:

- Project will be consistent with policy protecting the Integrity & Natural Character of Assateague Island.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 9 – Public Outreach. An opportunity for a public hearing shall be provided for projects in non-tidal waters that dredge, fill, bulkhead, or change the shoreline; construct or reconstruct a dam; or create a waterway, except in emergency situations. MDE (A3) COMAR 26.17.04.13A.

Select appropriate response:

- Project will be consistent with Public Outreach policy for relevant projects.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Quality of Life Policy 10 – Erosion & Sediment Control. Soil erosion shall be prevented to preserve natural resources and wildlife; control floods; prevent impairment of dams and reservoirs; maintain the navigability of rivers and harbors; protect the tax base, the public lands, and the health, safety and general welfare of the people of the State, and to enhance their living environment. MDA (C4) Md. Code Ann., Agric. § 8-102(d).

Select appropriate response:

- Project will be consistent with Erosion & Sediment Control policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Quality of Life Policy 11 – Safeguards for Outer Continental Shelf Development. Operations on the Outer Continental Shelf must be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or property, or which may endanger life or health. (B2) Md. Code Ann., Envir. §§ 17-101 to -403; COMAR 26.24.01.01; COMAR 26.24.02.01, .03; COMAR 26.24.05.01.

Select appropriate response:

- Project will be consistent with policy ensuring Safeguards for Outer Continental Shelf Development.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

5.1.2. Waste & Debris Management

Waste & Debris Management Policy 1 – Hazardous Waste Management. Controlled hazardous substances may not be stored, treated, dumped, discharged, abandoned, or otherwise disposed anywhere other than a permitted controlled hazardous substance facility or a facility that provides an equivalent level of environmental protection. MDE (D4) Md. Code Ann., Envir. § 7-265(a).

Select appropriate response:

- Project will be consistent with Hazardous Waste Management policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Waste & Debris Management Policy 2 – Hazardous Waste Management in Port of Baltimore. A person may not introduce in the Port of Baltimore any hazardous materials, unless the cargo is properly classed, described, packaged, marked, labeled, placarded, and approved for highway, rail, or water transportation. MDOT (D3) COMAR 11.05.02.04A.

Select appropriate response:

- Project will be consistent with Hazardous Waste Management in Port of Baltimore policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

5.1.3. Water Resources Protection & Management

Water Resources Protection & Management Policy 1 – Pollution Discharge Permit. No one may add, introduce, leak, spill, or emit any liquid, gaseous, solid, or other substance that will pollute any waters of the State without State authorization. MDE (A5) Md. Code Ann., Envir. §§ 4-402, 9-101, 9-322.

Select appropriate response:

- Project will be consistent with water policy requiring a Pollution Discharge Permit.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 2 – Protection of Designated Uses. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. MDE (A1) COMAR 26.08.02.02.

Select appropriate response:

- Project will be consistent with Protection of Designated Uses policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 3 – Prohibition of Harmful Toxic Impacts. The discharge of any pollutant which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms is prohibited. MDE (A4) COMAR 26.08.03.01.

Select appropriate response:

- Project will be consistent with water policy Prohibiting Harmful Toxic Impacts.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Water Resources Protection & Management Policy 4 – Pre-Development Discharge Permit

Requirement. Before constructing, installing, modifying, extending, or altering an outlet or establishment that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. MDE (D6) Md. Code Ann., Envir. § 9-323(a).

Select appropriate response:

- Project will be consistent with water policy requiring a Pre-Development Discharge Permit.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 5 – Use of Best Available Technology or Treat to Meet Standards

The use of best available technology is required for all permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment shall be required and based on waste load allocation. MDE (D4) COMAR 26.08.03.01C.

Select appropriate response:

- Project will be consistent with Use of Best Available Technology or Treat to Meet Standards water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Water Resources Protection & Management Policy 6 – Control of Thermal Discharges. Thermal discharges shall be controlled so that the temperature outside the mixing zone (50 feet radially from the point of discharge) meets the applicable water quality criteria or discharges comply with the thermal mixing zone criteria. MDE (D4) COMAR 26.08.03.03C.

Select appropriate response:

- Project will be consistent with Control of Thermal Discharges water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 7 – Pesticide Storage. Pesticides shall be stored in an area located at least 50 feet from any water well or stored in secondary containment approved by the Department of the Environment. MDA (C4) COMAR 15.05.01.06.

Select appropriate response:

- Project will be consistent with Pesticides Storage water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Water Resources Protection & Management Policy 8 – Stormwater Management. Any development or redevelopment of land for residential, commercial, industrial, or institutional purposes shall use small-scale non-structural stormwater management practices and site planning that mimics natural hydrologic conditions, to the maximum extent practicable. Development or redevelopment will be consistent with this policy when channel stability and 100 percent of the average annual predevelopment groundwater recharge are maintained, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary. MDE (C9) Md. Code Ann., Envir. § 4-203; COMAR 26.17.02.01, .06.

Select appropriate response:

- Project will be consistent with Stormwater Management policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 9 – Unpermitted Dumping of Used Oil. Unless otherwise permitted, used oil may not be dumped into sewers, drainage systems, or any waters of the State or onto any public or private land. MDE (D4) Md. Code Ann., Envir. § 5-1001(f).

Select appropriate response:

- Project will be consistent with Unpermitted Dumping of Used Oil water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 10 – Toxicity Monitoring. If material being dumped into Maryland waters or waters off Maryland’s coastline has demonstrated actual toxicity or potential for being toxic, the discharger must perform biological or chemical monitoring to test for toxicity in the water. MDE (A5) COMAR 26.08.03.07(D); COMAR 26.08.04.01.

Select appropriate response:

- Project will be consistent with Toxicity Monitoring water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Water Resources Protection & Management Policy 11 – Public Outreach. Public meetings and citizen education shall be encouraged as a necessary function of water quality regulation. MDE (A2) COMAR 26.08.01.02E(3).

Select appropriate response:

- Project will be consistent with Public Outreach water policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Water Resources Protection & Management Policy 12 - No Adverse Impact from Water Appropriation. Any water appropriation must be reasonable in relation to the anticipated level of use and may not have an unreasonable adverse impact on water resources or other users of the waters of the State. MDE (C9) COMAR 26.17.06.02.

Select appropriate response:

- Project will be consistent with policy ensuring No Adverse Impact from Water Appropriations.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

5.1.4. Flood Hazards & Community Resilience

Flood Hazards & Community Resilience Policy 1 – No Adverse Impact. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy. MDE (C2) Md. Code Ann., Envir. § 5-803; COMAR 26.17.05.04A.

Select appropriate response:

- Project will be consistent with No Adverse Impact flood hazard policy.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 2 – Non-Tidal Waters and Non-Tidal Floodplains. The following policies apply to projects in non-tidal waters and non-tidal floodplains, but not non-tidal wetlands. MDE (C2) COMAR 26.17.04.01, .07,.11.

Flood Hazards & Community Resilience Policy 2a – 1-Foot Freeboard Above 100-year Flood.

Proposed floodplain encroachments, except for roadways, culverts, and bridges, shall be designed to provide a minimum of 1 foot of freeboard above the elevation of the 100-year frequency flood event. In addition, the elevation of the lowest floor of all new or substantially improved residential, commercial, or industrial structures shall also be at least 1 foot above the elevation of the 100-year frequency flood event.

Select appropriate response:

- Project will be consistent with policy requiring a 1-Foot Freeboard Above 100-Year Flood for Construction in flood hazard areas.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Flood Hazards & Community Resilience Policy 2b – Stability of Unlined Earth Channels.

Proposed unlined earth channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, throughout their length unless it can be demonstrated that the stream channel will remain stable.

Select appropriate response:

- Project will be consistent with policy ensuring Stability of Unlined Earth Channels.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 2c – Stability of Lined Channels. Proposed lined channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, at their downstream terminus unless it can be demonstrated that the stream channel will remain stable.

Select appropriate response:

- Project will be consistent with policy ensuring Stability of Line Channels.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 2d – Prohibition of Dam Construction in High Risk Areas. Category II, III, or IV dams may not be built or allowed to impound water in any location where a failure is likely to result in the loss of human life or severe damage to streets, major roads, public utilities, or other high value property.

Select appropriate response:

- Project will be consistent with policy Prohibiting Dam Construction in High Risk Areas.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Flood Hazards & Community Resilience Policy 2e – Prohibition of Projects That Increase Risk Unless Mitigation Requirements Are Met. Projects that increase the risk of flooding to other property owners are generally prohibited, unless the area subject to additional risk of flooding is purchased, placed in designated flood easement, or protected by other means acceptable to the Maryland Department of the Environment.

Select appropriate response:

- Project will be consistent with policy Prohibiting Projects That Increase Flood Risk Unless Mitigation Requirements Are Met.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 2f – Prohibition of Construction or Substantial Improvements in 100-Year Floodplain. The construction or substantial improvement of any residential, commercial, or industrial structures in the 100-year frequency floodplain and below the water surface elevation of the 100-year frequency flood may not be permitted. Minor maintenance and repair may be permitted. The modifications of existing structures for flood-proofing purposes may be permitted. Flood-proofing modifications shall be designed and constructed in accordance with specifications approved by the Maryland Department of the Environment.

Select appropriate response:

- Project will be consistent with policy Prohibiting Construction or Substantial Improvements in 100-Year Floodplain.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Core Policies Checklist

Flood Hazards & Community Resilience Policy 2g – Channelization Is Discouraged.

Channelization shall be the least favored flood control technique.

Select appropriate response:

- Project will be consistent with policy Discouraging Channelization.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 2h – Preference of Multi-Purpose Use Projects, Project Accountability, & 50% Reduction in Damages. Multiple purpose use shall be preferred over single purpose use, the proposed project shall achieve the purposes intended, and, at a minimum, project shall provide for a 50 percent reduction of the average annual flood damages.

Select appropriate response:

- Project will be consistent with policy that ensures a Preference to Multi-Purpose Use Projects, Project Accountability & 50% Reduction in Damages.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Flood Hazards & Community Resilience Policy 3 – Development-Related Runoff Restrictions for the Gwynne Falls and Jones Falls Watersheds. Development may not increase the downstream peak discharge for the 100-year frequency storm event in the following watersheds and all their tributaries: Gwynns Falls in Baltimore City and Baltimore County; and Jones Falls in Baltimore City and Baltimore County. MDE (C2) COMAR 26.17.02.07.

Select appropriate response:

- Project will be consistent with policy that Restricts Development-Related Runoff in the Gwynne Falls & Jones Falls Watersheds.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Name of Project:

5.3 COASTAL USES

5.3.9 Development

Development Policy 1– Sediment & Erosion Control. Any development shall be designed to minimize erosion and keep sediment onsite. MDE (C4) COMAR 26.17.01.08.

Select appropriate response:

- Project will be consistent with policy requiring Sediment & Erosion Control.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 2 – Erosion and Sediment Control Plan. An erosion and sediment control plan is required for any grading activity that disturbs 5,000 square feet of land area and 100 cubic yards of earth or more, except for agricultural land management practices and agricultural best management practices. MDE (C9) COMAR 26.17.01.05.

Select appropriate response:

- Project will be consistent with policy requiring an Erosion & Sediment Control Plan.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 3 – Stormwater Management. Development or redevelopment of land for residential, commercial, industrial, or institutional use shall include stormwater management compliant with the Environmental Site Design sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria. MDE (C9) COMAR 26.17.02.01, -.06

Select appropriate response:

- Project will be consistent with policy requiring Stormwater Management.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 4 – First Avoid then Minimize Wetland Impacts, Minimize Water Quality, Habitat & Forest Damage & Preserve Cultural Resources. Development must avoid and then minimize the alteration or impairment of tidal and non-tidal wetlands; minimize damage to water quality and natural habitats; minimize the cutting or clearing of trees and other woody plants; and preserve sites and structures of historical, archeological, and architectural significance and their appurtenances and environmental settings.

MDE/DNR/CAC (D6) Md. Code Ann., Envir. §§ 4-402, 5-907(a), 16-102(b); Md. Code Ann., Nat. Res. §§ 5-1606(c), 8-1801(a); Md. Code Ann., Land Use § 8-102; COMAR 26.24.01.01(A).

Select appropriate response:

- Project will be consistent with policy that requires to First Avoid, then Minimize, Adverse Impacts to Tidal & Non-Tidal Wetlands, Water Quality, Natural Habitats, & Forests & Preserve Cultural Sites & Resources.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 5 – Proposed Development Projects Must Be Sited Where Adequate Water Supply, Sewerage and Solid Waste Services & Infrastructure Are Available. Any proposed development may only be located where the water supply system, sewerage system, or solid waste acceptance facility is adequate to serve the proposed construction, taking into account all existing and approved developments in the service area and any water supply system, sewerage system, or solid waste acceptance facility described in the application and will not overload any present facility for conveying, pumping, storing, or treating water, sewage, or solid waste. MDE (C9) Md. Code Ann., Envir. § 9-512.

Select appropriate response:

- Project will be consistent with policy requiring that Proposed Development Projects Be Sited Where Adequate Water Supply, Sewerage and Solid Waste Services Are Available.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 6 - Proposed Construction Must Have Water and Wastewater Allocation or Provide Onsite Capacity. A proposed construction project must have an allocation of water and wastewater from the county whose facilities would be affected or, in the alternative, prove access to an acceptable well and on-site sewage disposal system. The water supply system, sewerage system, and solid waste acceptance facility on which the building or development would rely must be capable of handling the needs of the proposed project in addition to those of existing and approved developments. MDE (D6) Md. Code Ann., Envir. § 9-512.

Select appropriate response:

- Project will be consistent with policy requiring Proposed Construction to Have Water & Wastewater Allocation or Provide Onsite Capacity.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 7 – Structures Served by On-Site Water and Sewage Waste Disposal Systems Must Demonstrate Capacity Prior to Construction or Alteration. Any residence, commercial establishment, or other structure that is served or will be served by an on-site sewage disposal system or private water system must demonstrate that the system or systems are capable of treating and disposing the existing sewage flows and meeting the water demand and any reasonably foreseeable increase in sewage flows or water demand prior to construction or alteration of the residence, commercial establishment, or other structure. MDE (D6) COMAR 26.04.02.03F.

Select appropriate response:

- Project will be consistent with policy that requires Structures Served by On-Site Water & Sewerage Disposal Systems to Demonstrate Capacity Prior to Construction or Alteration.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 8 - Grading or Building in the Severn River Watershed Requires Approved Development Plan. Proponents of grading or building in the Severn River Watershed must create a development plan and have it approved by the soil conservation district. The plan shall include a strategy for controlling silt and erosion and must demonstrate that any septic or private sewer facility will not contribute to the pollution of the Severn River. MDE (D4) Md. Code Ann., Envir. § 4-308(a).

Select appropriate response:

- Project will be consistent with policy requiring an Approved Development Plan prior to Grading or Building in the Severn River Watershed.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 9 - Siting Requirements for Industrial Facilities. Industrial facilities must be sited and planned to ensure compatibility with other legitimate beneficial water uses, constraints imposed due to standards of air, noise and water quality, and provision or availability of adequate water supply and wastewater treatment facilities. MDE (D4) Md. Code Ann., Envir. §§ 2-102, 4-402, 9-224(b), 9-512(b); COMAR 26.02.03.02; COMAR 26.11.02.02B.

Select appropriate response:

- Project will be consistent with policy that defines Siting Requirements for Industrial Facilities.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 10 - Citizen Engagement in Planning & Development. Local citizens shall be active partners in planning and implementation of development. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

Select appropriate response:

- Project will be consistent with policy requiring Citizen Engagement in Planning & Development.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 11 - Protect Existing Community Character & Concentrate Growth. Development shall protect existing community character and be concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

Select appropriate response:

- Project will be consistent with policy that Protects Existing Community Character & Concentrates Growth.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 12 - Site Development Near Available or Planned Transit. Development shall be located near available or planned transit options. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

Select appropriate response:

- Project will be consistent with policy that requires Site Development to Be near Available or Planned Transit.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Development Policy 13 - Design for Walkable, Mixed Use Communities. Whenever possible, communities shall be designed to be compact, contain a mixture of land uses, and be walkable. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

Select appropriate response:

- Project will be consistent with policy that requires Communities to Be Compact, Include Mix Land Uses, & Be Walkable.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Development Policies Checklist

Development Policy 14 – Communities Must Identify Adequate Water Supply, Stormwater & Wastewater Services & Infrastructure to Meet Existing & Future Development. To meet the needs of existing and future development, communities (geographically defined areas with shared interests, values, resources, and goals) must identify adequate drinking water and water resources and suitable receiving waters and land areas for stormwater management and wastewater treatment and disposal. MDE (D6) Md. Code Ann., Land Use § 3-106.

Select appropriate response:

- Project will be consistent with policy that requires Communities to Identify Adequate Water Supply, Stormwater & Wastewater Services & Infrastructure to Meet Existing & Future Development.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Forest Policy Checklist

Name of Project:

5.2 COASTAL RESOURCES

5.2.4 Forests

Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts. The Forest Conservation Act and its implementing regulations, as approved by NOAA, are enforceable policies. Generally, before developing an area greater than 40,000 square feet, forested and environmentally sensitive areas must be identified and preserved whenever possible. If these areas cannot be preserved, reforestation or other mitigation is required to replace the values associated with them. This policy does not apply in the Critical Area. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-1601 to -1613; COMAR 08.19.01-.06.

Select appropriate response:

- Project will be consistent with forest policy that requires Projects Impacting More Than 40,000 Square Feet to Identify & Protect Habitat & Mitigate for Impacts.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Forest Policy 2 – Maintain Resource Sustainability & Prevent or Limit Clear-Cutting to Protect Watersheds. Forestry activities shall provide for adequate restocking, after cutting, of trees of desirable species and condition; provide for reserving, for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed. DNR (C5) Md. Code Ann., Nat. Res. § 5-606.

Select appropriate response:

- Project will be consistent with forest policy that Maintains Resource Sustainability & Prevents or Limits Clear-Cutting to Protect Watersheds.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Forest Policy Checklist

Forest Policy 3 –Commercial Timber Cuts of Five Acres or More with Pines Comprising 25% of Live Trees Shall Ensure Pine Resource Sustainability. When any timber is cut for commercial purposes from five acres or more of land on which loblolly pine, shortleaf pine, or pond pine, singly or together occur and constitute 25 percent or more of the live trees on each acre, the person conducting the cutting or the landowner shall leave uncut and uninjured at least eight well distributed, cone-bearing, healthy, windfirm, loblolly, shortleaf, or pond pine trees on each acre cut for the purpose of reseeded. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-501, -504.

Select appropriate response:

- Project will be consistent with forest policy requiring Pine Resource Sustainability for Commercial Timber Cuts of Five Acres or More with Pines Comprising 25 Percent of Live Trees.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Forest Policy 4 – Minimize Forest Removal for Highway Construction Projects & Mitigate with Equivalent Reforestation if over 1 Acre Is Lost. Any highway construction activity, including related off-site environmental mitigation, may only cut or clear the minimum amount of trees and other woody plants necessary to be consistent with sound design principles. If over an acre of forest is lost as a result of the project, an equivalent area of publicly owned property shall be reforested. DNR/MDOT (C5) Md. Code Ann., Nat. Res. § 5-103.

Select appropriate response:

- Project will be consistent with forest policy that requires Minimizing Forest Removal for Highway Construction Projects & Mitigating with Reforestation if Over 1 Acre is Lost.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Forest Policy Checklist

Forest Policy 5 – Protection of Roadside Trees Unless Removal or Trimming Is Justified. Roadside trees should not be cut down, trimmed, mutilated, or injured unless the activity will eliminate a hazard to property, public safety, or health; improve or prevent tree deterioration; or improve the general aesthetic appearance of the right-of-way. DNR (C5) COMAR 08.07.02.05.

Select appropriate response:

- Project will be consistent with forest policy that Protects Roadside Trees Unless Removal or Trimming Is Justified.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Forest Policy 6 – Sediment & Erosion Control in Non-Tidal Wetlands. A person conducting a forestry activity in non-tidal wetlands shall develop and implement a sediment and erosion control plan. MDE (C3) COMAR 26.23.05.02.

Select appropriate response:

- Project will be consistent with forest policy that requires Sediment & Erosion Control in Non-Tidal Wetlands.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Historical & Archaeological Policies Checklist

Name of Project:

5.2 COASTAL RESOURCES

5.2.5 Historical and Archaeological Sites

Historical and Archaeological Policy 1 – Protection of Submerged Historic Resources. Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb submerged archaeological historic property are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-341, -333.

Select appropriate response:

- Project will be consistent with historical & archaeological policy Protecting Submerged Historic Resources.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Historical and Archaeological Policy 2 – Protection of Caves & Archaeological Sites. Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb cave features or archeological sites under State control are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-342 to -343.

Select appropriate response:

- Project will be consistent with historical & archaeological policy Protecting Caves & Archaeological Sites
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Historical & Archaeological Policies Checklist

Historical and Archaeological Policy 3 – Protection of Burial Sites & Cemeteries. Neither human remains nor funerary objects may be removed from a burial site or cemetery, unless permission is granted by the local State’s Attorney. Funerary objects may not be willfully destroyed, damaged, or defaced. MDP (C8) Md. Code Ann., Crim. Law §§ 10-401 to -404.

Select appropriate response:

- Project will be consistent with historical & archaeological policy Protecting Burial Sites & Cemeteries.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Transportation Policies Checklist

Name of Project:

5.3 COASTAL USES

5.3.7 Transportation

Transportation Policy 1 – Sustainability Analysis of Transportation Projects. The social, economic, and environmental effects of proposed transportation facilities projects must be identified and alternative courses of action must be considered. MDOT (D8) COMAR 11.01.06.02B.

Select appropriate response:

- Project will be consistent with policy requiring a Sustainability Analysis of Transportation Projects.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Transportation Policy 2 – Public Engagement in Transportation Project Planning. The public must be involved throughout the process of planning transportation projects. MDOT (D8) Md. Code Ann., Transp. § 7-304(a); COMAR 11.01.06.02B.

Select appropriate response:

- Project will be consistent with policy requiring Public Engagement in Transportation Project Planning.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Transportation Policies Checklist

Transportation Policy 3 – Projects Must Support Multi-Modal Transportation. Transportation development and improvement projects must support the integrated nature of the transportation system, including removing impediments to the free movement of individuals from one mode of transportation to another. MDOT (D8) Md. Code Ann., Transp. § 2-602.

Select appropriate response:

- Project will be consistent with policy requiring Transportation Projects to Support Multi-Modal Transportation.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Transportation Policy 4 – An Integrated Private-Public Regional Transportation System. Private transit facilities must be operated in such a manner as to supplement facilities owned or controlled by the State to provide a unified and coordinated regional transit system without unnecessary duplication or competing service. MDOT (D8) Md. Code Ann., Transp. § 7-102.1(b).

Select appropriate response:

- Project will be consistent with policy requiring that private transit facilities to Support An Integrated Private-Public Regional Transportation System.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



Coastal Zone Management Program - Transportation Policies Checklist

Transportation Policy 5 – Transportation Projects Must Consider the Needs of Bicyclists & Pedestrians. Access to and use of transportation facilities by pedestrians and bicycle riders must be enhanced by any transportation development or improvement project, and best engineering practices regarding the needs of bicycle riders and pedestrians shall be employed in all phases of transportation planning. MDOT (D8) Md. Code Ann., Transp. § 2-602.

Select appropriate response:

- Project will be consistent with policy requiring Transportation Projects to Consider the Needs of Bicyclists & Pedestrians.
- Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Subject: Mitigation Efforts for BWI Phase I Improvements

From: Matt Johnston <exjohn00@aacounty.org>

Sent: Thursday, May 28, 2020 3:23:10 PM

To: Robin Bowie <rbowie@bwiairport.com>

Cc: Peter Baron <exbaro99@aacounty.org>

Subject: Mitigation Efforts for BWI Phase I Improvements

Ms. Bowie,

My name is Matthew Johnston, and I work for Anne Arundel County Executive Steuart Pittman on environmental policy issues. A constituent recently made me aware of the planned Phase I Improvements projects at BWI Airport.

First, I want to sincerely thank you for the detailed virtual public meeting and website you put together for this project. I've perused it over the last couple of days, and learned a tremendous amount about the project.

I noted that BWI and MAA are working with MD DNR and MDE to provide mitigation for the onsite and offsite removal of trees, as well as for wetland disturbance, but I couldn't locate detailed information about these efforts. Are there any maps and summary data you could provide showing the location and amount of mitigation that will occur for this project?

Additionally, would there be any opportunities to work collaboratively with property owners and Anne Arundel County to replace trees that must be removed on private property with understory trees or shrubs?

Thank you very much for your work on this to date, and I look forward to hearing from you soon.

Sincerely,



The Best Place - For All

Matthew Johnston
Office of the County Executive
Environmental Policy Director
Office: (410) 222-1526
Cell: (443) 699-6543



www.aacounty.org



Ms. Robin M Bowie
Director, Office of Environmental Services
Maryland Department of Transportation
Maryland Aviation Administration

June 4, 2020

Dear Ms. Bowie,

Thank you for the opportunity to provide comments related to the Maryland Aviation Administration's proposed Airport Layout Plan which would include the removal of 83 acres of forest on BWI property and additional tree removal on private property.

I write on behalf of the Watershed Stewards Academy, a non-profit organization, that works throughout Anne Arundel County to empower communities to pursue environmental restoration. Over the last decade, we have trained over 250 environmental leaders representing over 100 communities and 25 religious congregations from Brooklyn Park to Herring Bay. These leaders have completed over 2,500 projects from rain barrels to stream restoration, and engaged almost 150,000 residents of our County. This year, we launched a new program, Replant Anne Arundel, aimed at planting trees across the county to combat significant tree canopy loss.

As we work to restore our local waterways, our organization is concerned about the tremendous affect that additional tree removal at BWI airport will have on local streams, and the environment (air quality, sound) of surrounding communities. Newly planted trees, while important, do not replace whole forests and stormwater controls in newly developed areas are often only designed to treat minimum runoff volumes. In recent years, we have seen an increase in the number and intensity of large volume storms and that trend is predicted to continue in the future. For this reason, we urge you to avoid removal of as many trees as possible and consider strong Stormwater management controls for cleared areas.

We do believe that removal of 83 acres on the BWI airport constitutes a significant environmental impact.

As you move forward with this project, we ask that you re-consider the plan to minimize the clearing of as many trees as possible and create a robust mitigation plan that exceeds requirements for replanting and preservation. We also ask that stormwater management controls planned for the cleared property exceed the minimum state requirements to treat water quality volumes.

Thank you for your efforts to consider the effect of this plan on local communities and waterways.

Sincerely,

Suzanne Etgen
Executive Director

975 Indian Landing Road • Millersville, Maryland 21108 • 410-222-3831 • www.aawsa.org

WSA is a 501(c)3 non-profit organization and donations are tax-deductible to the fullest extent of the law. Our tax ID is 27-3502329. A copy of the current financial statement of Anne Arundel County Watershed Stewards Academy is available in writing or by calling the WSA office. The cost of postage and copies, documents and information filed under the Maryland charitable organizations law can be obtained from the Secretary of State, Charitable Division, State House, Annapolis, MD



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June 4, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
P.O. Box 8766
BWI Airport, MD 21240

RE: Updated Draft EA and Draft Section 4(f) Determination
ALP Phase I Improvements at BWI Marshall Airport

Dear Ms. Bowie:

The Chesapeake Bay Foundation has become aware of significant tree cutting proposed as part of the ALP Phase I Improvements at BWI Marshall Airport. According to the May 21, 2020 presentation from the Maryland Aviation Administration (MAA), the project would include removal of 83 acres of forest, along with more than 1,000 trees cut offsite in the surrounding community. MAA posits that these actions will result in “no significant impact” within the context of the Environmental Assessment.

This approach will result in a large net loss of trees in a concentrated and populated area that could cause significant localized impacts to air quality, water quality, community health and property values. Numerous studies have highlighted the important services trees provide to moderate temperature extremes, provide recreation, beautify communities, control flooding and erosion, and filter pollutants. In the past 45 years, the loss of forests in the Baltimore-Washington region has resulted in a 19 percent increase in polluted runoff at a cost of over one billion dollars.

MAA proposes to mitigate tree loss by placing a conservation easement on other forest land. The agency could do much more to acknowledge and address the very real negative impacts likely to befall the airport’s neighbors to the north of the site. Conservation easements work best during new “greenfield” development because these easements can be situated in such a way that they provide ongoing benefits to future residents. They are generally not a helpful mitigation strategy where hundreds of trees would be removed from public and private property within an established community, as is the case for this project.

CBF urges the agency to further investigate tree management practices that could reduce potential threats to aircraft without complete removal. In addition, MAA should commit to replant as many trees as possible within the community, using species with growth habits that are compatible with aircraft safety. MAA should only mitigate tree clearing using offsite conservation after first exhausting all alternative practices and replanting opportunities on-site and within the community.

Thank you for the opportunity to offer comments as part of this Environmental Assessment. Please do not hesitate to contact me at 443-482-2096 or by email at efisher@cbf.org to discuss this matter in further detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Fisher". The signature is written in a cursive style with a large, stylized initial "E".

Erik Fisher, AICP
Maryland Land Use Planner and Assistant Director

**COMMENTS—
PUBLIC**

Subject: FW: [REDACTED] Andover Rd

From: Robin Bowie
Sent: Tuesday, April 21, 2020 2:17 PM
To: Don Skacan [REDACTED]
Subject: RE: [REDACTED] Andover Rd

Good afternoon Mr. Skacan,

The public workshop scheduled for March 11 was postponed due to the COVID 19 virus but we will be holding a virtual public meeting on May 21, 2020. A notice for the meeting will appear in local papers and on our website (<http://www.marylandaviation.com/content/environmental/environmentaldocs.html>) on 4/23/2020. Please check it for details on the meeting logistics.

Specific to your property, when we reviewed the trees on your property we found that there were a few trees that could be potentially saved. We will be posting the boards that would have been available at the public meeting on the MAA website beginning May 21. One of these boards includes a depiction of the tree obstructions in the vicinity of your property. Please note that there will still be more review of any tree marked for removal prior to any action being taken.

As for the timing of obstruction removal, there are many more steps to be taken before any tree is removed. The Draft EA must be finalized, which we expect to complete this fall. After the environmental document is approved by the Federal Aviation Administration, MDOT MAA will need to work through the necessary right to enter your property so as to confirm the obstruction, timing and means for removal of any trees. We would expect that any removal is still more than a year away.

Hope that answers your questions!

Ms. Robin M. Bowie
Director, Office of Environmental Services Division of Planning and Engineering Maryland Department of Transportation
Maryland Aviation Administration
410-859-7103 (Office)
rbowie@bwiairport.com

Mailing Address
P.O. Box 8766
BWI Airport, MD 21240

Overnight Shipping Address
991 Corporate Boulevard
Linthicum, MD 21090

-----Original Message-----

From: Don Skacan [REDACTED]
Sent: Tuesday, April 21, 2020 1:10 PM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: [REDACTED] Andover Rd

Good afternoon Robin

I was just looking through previous correspondence and was hoping you could give me update concerning "vegetation obstruction" on my property - [REDACTED] Andover Rd-21090

I was out of town during the scheduled workshops .

Is there work expected to be done on my property?

Is there a time schedule?

Any other information you could share?

Thank you

Don Skacan

Sent from my iPad

From: Paul Verchinski <[REDACTED]>
Sent: Thursday, May 21, 2020 7:36 PM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Paul L Verchinski <[REDACTED]>
Subject: Chat is useless, draft EA

I submitted the following and received no response. I wonder how many others submitted and received no response.

"

from Paul Verchinski to all panelists:

83 Acres of Forest Clearing and 2300 Trees are to be removed. MD has requirements for Forest Conservation replanting where some is required on the original property. The MD Forest Protection Act was revised in 2019. How does the tree removal comply with MD Forest Conservation and Replanting requirements?

from Paul Verchinski to Robin Bowie (privately):

I reviewed the hard copy to some extent at the Howard County Library. It had about 400 pages and 2 CDs to review. I was not able to go back and complete my review due to Covid19. I have attempted to continue my review online but have found this to be impossible. I therefore lodge this protest that does not allow the public to be able to constructively review this draft EA. It is only available online and I have a visual disability.. I did request by Email to Kim Hughes 'hard copies of the meeting materials as well as the documents currently posted on the website.', but did not receive this.

from Paul Verchinski to Robin Bowie (privately):

I have submitted 2 questions and both have not been addressed"

Posted by: Paul Verchinski <[REDACTED]>

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Subject: Tree Removal in Linthicum

From: Robin Smith <[REDACTED]>

Sent: Friday, May 22, 2020 1:44 PM

To: Robin Bowie <rbowie@bwairport.com>

Subject: Tree Removal in Linthicum

Dear Ms. Bowie,

As a 28-year resident of Linthicum, I am appalled that a proposal to remove more than 1200 mature trees from private property in our small community is being considered. I am strongly against this initiative.

If this is an FAA mandate for clear obstructed sight lines, can't these trees be topped off instead of removed? The airport expansion over the years has detrimentally affected our community in a number of ways. This proposal is yet another attack on our small town.

Please find a way to proceed without this drastic action. Being a good neighbor to the airport has its limits; the airport must be a good neighbor in return. Please do not continue to negatively impact Linthicum with the removal of these trees.

Sincerely,

Robin Smith

Sent from my iPad

Subject: Review of Draft EA and Draft Section 4(f) Determination for BWI Marshall for Airport Layout Plan Phase 1 Improvements

From: Paul Verchinski <[REDACTED]>

Date: May 23, 2020 at 10:54:36 AM EDT

To: Kim Hughes <KHUGHES@HNTB.com>

Cc: Robin Bowie <rbowie@bwiairport.com>, Kevin Clarke <KClarke@bwiairport.com>, Paul L Verchinski <[REDACTED]>

Subject: Re: Review of Draft EA and Draft Section 4(f) Determination for BWI Marshall for Airport Layout Plan Phase 1 Improvements

Reply-To: Paul Verchinski <[REDACTED]>

i am in the demographic that is susceptible to COVID19, 60 and over, so I am not going to areas like your offices per State of MD and Howard County restrictions for COVID19.

As I said in my Email, which apparently was not set up for Emails from outside your agency for requests regarding the draft EA, you now want me to find an old Email. This is outrageous and points up that trying to do a review of the EA during this COVID19 does not allow for full public involvement AS REQUIRED UNDER NEPA.

paul Verchinski

On Friday, May 22, 2020, 9:12:18 AM EDT, Kim Hughes <khughes@hntb.com> wrote:

Mr. Verchinski,

Ms. Bowie advised that you had reached out to me previously by email and that I had not replied. I did not receive an email from you, would you be so kind as to resend your original email so that I can have my IT folks search for it? If your email went through to my spam filter I would like to make sure that it does not happen again.

Ms. Bowie requested that I reach out to you to about setting a time for you to come to the MAA's offices to review the hard copy version of the subject document. In addition to the public libraries, this option for viewing the document has always been available as was stated in the Notice of Availability issued February 6, 2020 for the draft document. MAA's offices are open but with the current COVID 19 requirements for social distancing we'll need to know a specific time during normal office hours (9 AM until 4 PM) that you can make yourself available to continue your review of the document. I am cc:ing Ms. Bowie and Mr. Clarke on this email as they will need to arrange that someone be in the MAA's offices while you are reviewing the document. Please advise of the best time in the near future for you to visit MAA's offices as the close of the comment period is June 4th 2020.

Regards,

Kim

Kimberly C. Hughes, PE

Associate Vice President

Environmental Services

Tel (703) 253-5856 Cell (571) 213-7730 Fax (703) 671-6210

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5/24/2020

To Whom It May Concern: *Ms Robin Bowie*

As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.

Although the MAA considers the removal of trees to be of no significant impact, the truth is, there will be an impact, to the environment and to the surrounding neighborhoods. We recently moved to Linthicum because of the beautiful neighborhoods and the low noise levels despite being this close to the airport. Neighbors and the LSIA indicated that the surrounding area and the MAA had a good relationship and worked out issues together. I find it appalling that you can propose the removal of 83 acres of forest and 1,102 individual trees from off the airport and 1,228 trees removed on airport grounds without adequately addressing the impact and replacing the trees with other trees or at least a sound barrier. This would also have an impact on wetlands and runoff into our streams. I realize you've studied this and consider it of "no significant impact", but as bad as our environment is (air, ground, and water), any additional impact without implementing a fix is unacceptable.

To simply say that trees removed as part of the FAA flight path safety do not have to be replaced is ludicrous. Those trees have been there for decades and can be either trimmed or replaced and still offer flight path safety. In short, we lose our old trees and get little to nothing in return to maintain the health of the environment and surrounding areas. MAA indicated they will comply with the reforestation requirements through plantings and credits. However, the use of "credits" translates to the planting of "replacement" trees virtually anywhere in Maryland – does not replace the trees lost within and around our community.

One study by the International Airport Review had the following to say about the noise pollution:

"The level of noise that comes from airports has an effect on people's health through interference with communication, sleep disturbance, annoyance responses, learning acquisition, performance effects and cardiovascular and psychophysiological effects, and an increased risk of cardiovascular disease. The noise surrounding an airport causes a decline in the land values surrounding the area. Regulations like the use of sound barriers and other soundproofing techniques such as noise monitoring systems, operating restrictions and limits, air traffic management, and home insulation are all other steps that airports are taking to reduce their noise output."

We don't need additional noise pollution from the airport penetrating into Linthicum-Shipley and our neighboring communities. The fact that some of the construction will be behind Northrop Grumman does little to address the impact on the environment and the surrounding area. The removal of a significant amount of the

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ENVIRONMENTAL SERVICES

natural sound barrier (trees) will increase in the airport noise pollution to which our community is subjected.

To echo input provided by Mr. Woomer, the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, will ultimately increase noise pollution in Linthicum and surrounding areas. The removal of all of these trees and the clear cutting of 83 acres will increase rain/storm water runoff along with the significant increase already experienced from all the land development all along West Nursery Road.

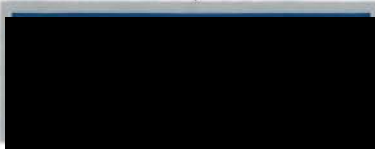
The statement that "the response provided indicated the FAA does not require additional intervention" is not a neighborly solution nor is the answer that the MAA analysis doesn't find the removal of these trees to have a significant impact on airport noise penetration or amplitude in Linthicum-Shipley. The loss of forested land along the west border of our community is already dumping additional amounts of rain and storm water into the west border stream. This increase in run off water from hard structured surfaces bring with it an increase in pollutants being dumped into the remaining border green space and existing streams.

In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I'm not an environmental expert, but I would also believe that the trees/foliage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well.

The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.

Sincerely,


Dan Cryan





BALTIMORE MD 212
25 MAY 2020 1PM 7 L

MS. ROBIN M. BOWIE
DIRECTOR, OFFICE OF ENVIRONMENTAL SERVICES
MARYLAND DEPARTMENT OF TRANSPORTATION
MARYLAND AVIATION ADMINISTRATION
PO Box 8766
BWI AIRPORT, MD 21240



21240-

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OFFICE OF ENVIRONMENTAL SERVICES

Subject: Noise & Massive Tree Removal (Resend)

From: Dan Cryan [REDACTED] <[REDACTED]@[REDACTED].t>

Sent: Sunday, May 24, 2020 7:53:21 PM

To: Robin Bowie <rbowie@bwairport.com>

Cc: pamela.beidle@senate.state.md.us <pamela.beidle@senate.state.md.us>; Dan Woomer

<[REDACTED]>; Suzzie Schuyler <[REDACTED]>

Subject: Noise & Massive Tree Removal (Resend)

Ms. Robin M. Bowie,

As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.

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To simply say that trees removed as part of the FAA flight path safety do not have to be replaced is ludicrous. Those trees have been there for decades and can be either trimmed or replaced and still offer flight path safety. In short, we lose our old trees and get little to nothing in return to maintain the health of the environment and surrounding areas. MAA indicated they will comply with the reforestation requirements through plantings and credits. However, the use of "credits" translates to the planting of "replacement" trees virtually anywhere in Maryland – does not replace the trees lost within and around our community.

One study by the International Airport Review had the following to say about the noise pollution:

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air traffic management, and home insulation are all other steps that airports are taking to reduce their noise output.”

We don't need additional noise pollution from the airport penetrating into Linthicum-Shipley and our neighboring communities. The fact that some of the construction will be behind Northrop Grumman does little to address the impact on the environment and the surrounding area. The removal of a significant amount of the natural sound barrier (trees) will increase in the airport noise pollution to which our community is subjected.

To echo input provided by Mr. Woomer, the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, will ultimately increase noise pollution in Linthicum and surrounding areas. The removal of all of these trees and the clear cutting of 83 acres will increase rain/storm water runoff along with the significant increase already experienced from all the land development all along West Nursery Road.

The statement that “the response provided indicated the FAA does not require additional intervention” is not a neighborly solution nor is the answer that the MAA analysis doesn't find the removal of these trees to have a significant impact on airport noise penetration or amplitude in Linthicum-Shipley. The loss of forested land along the west border of our community is already dumping additional amounts of rain and storm water into the west border stream. This increase in runoff water from hard structured surfaces bring with it an increase in pollutants being dumped into the remaining border green space and existing streams.

In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I'm not an environmental expert, but I would also believe that the trees/foliage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well.

The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.

Sincerely,
Dan Cryan

[REDACTED]
Linthicum, MD 21090

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Subject: FW: NOISE COMPLAINT-5/25/2020, 11:19 am

From: Karen Harrell <KHarrell@bwiairport.com>
Sent: Tuesday, May 26, 2020 11:52 AM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: FW: NOISE COMPLAINT-5/25/2020, 11:19 am

From: Ken Lathroum <[REDACTED]>
Sent: Monday, May 25, 2020 11:25 AM
To: MAA NoiseAbatement <maanoiseabatement@bwiairport.com>
Subject: NOISE COMPLAINT-5/25/2020, 11:19 am

Why no lant the helicopter in my side yard. rattling dishes in my house is not enough. I want BWI to be more intrusive on our life in linthicum!!! (sic)

PS: I will be formally objecting to MWI/MAAS/MDOT clearing 83 acres on your airport and absolutely opposing the removal/topping od any trees off of BWI property.

Stick the above paragraph in your opposition folder.

W.K. Lathroum
Linthicum Heights, MD.
[REDACTED]

Subject: Linthicum-BWI Tree Removal

From: [REDACTED] >

Sent: Tuesday, May 26, 2020 7:31 AM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Linthicum-BWI Tree Removal

Dear Ms. Bowie,

Please add my voice to those objecting to further tree removal north of BWI. There is too much noise now and this can only make things worse. Those trees and undeveloped land are the few remaining natural areas that haven't been paved over and are a haven in an otherwise overdeveloped area.

Thanks,

BARRY LAURENT

[REDACTED]
LINTHICUM, MD 21090

PH: [REDACTED]

Subject: Trees around the airport

From: Margo Falahee [REDACTED]

Sent: Thursday, May 28, 2020 4:32:35 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Trees around the airport

Dear Ms. Bowie:

In response to BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in my community, the trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I would suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Kind Regards,
Margo Falahee
Linthicum Heights, MD

From: Donna Williman >
Sent: Thursday, May 28, 2020 3:22:23 PM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: Airport Tree Removal Proposal

May 28, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, the removal of 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community was discussed. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increases our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot

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Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents of my community.

Sincerely,
Donna Williman

Subject: Environmental Assessment and the draft 4(f)

From: M Fal [REDACTED] >

Sent: Friday, May 29, 2020 5:15 PM

To: Robin Bowie <rbowie@bwairport.com>

Subject: Environmental Assessment and the draft 4(f)

Dear Ms. Bowie:

On May 24, 2020 Dan Cryan from Linthicum Shipley Improvement Association sent the email below to your attention.

“As a member of the Linthicum Shipley Improvement Association (LSIA) and a Linthicum resident I would like to address the proposed removal of trees in and around the airport and the community. These major environmental issues affecting our region were addressed at held two virtual public workshops this past week to present the current Airport Layout Plan (ALP) as part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination. My input below is based on the videos posted on the website as well as input provided from a neighbor.

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In short, everyone deserves to breathe clean air, drink clean water, and live in a healthy environment free of excess noise and pollutants. It should not be up to the MAA or FAA alone to determine what is safe or not safe for the surrounding area. I’m not an environmental expert, but I would also believe that the trees/foliage play some role in cleaning the impurities (greenhouse gas emissions) from the air as well.

The relationship with the MAA and the surrounding community has been a positive one and I for one would like to see that continue. We respectfully ask that you reconsider the proposed removal of trees and consider instead trimming trees where feasible and replacing trees on site that are removed to maintain a sound barrier and protect the environment. Any increase in noise will negatively impact the surrounding neighbors.”

As a resident of Linthicum, and as secretary of the North Linthicum Improvement Association, I would like to echo the concerns raised by Mr. Cryan, as well as those raised by Senator Pam Beidle, and the concerns raised by many people in this community. Our Association will be discussing this issue by Zoom meeting on June 2, 2020 and just like Linthicum Shiply, our relationship with the MAA has been a positive one. I am asking that you please reconsider your proposed plans to remove trees and consider instead topping trees or explore other options.

Sincerely,

Marnie Ford
Linthicum Resident and Secretary of NLIA

Subject: Save Our Trees and My Neighborhood

From: Frank Riley <[REDACTED]>

Sent: Friday, May 29, 2020 1:13 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Save Our Trees and My Neighborhood

Dear Ms. Bowie:

Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,
Frank Riley

Subject: Our trees in Linthicum

From: debbie brodeur [REDACTED]
Sent: Saturday, May 30, 2020 12:20:13 AM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: Our trees in Linthicum

May 28, 2020

Ms. Robin M. Bowie, Director

Office of Environmental Services

Maryland Aviation Administration

Maryland Department of Transportation

P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

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Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,

Pamela G. Beidle

Senator, District 32

CC: Senator Ben Cardin

Senator Chris Van Hollen

Governor Larry Hogan

Congressman Dutch Ruppersburger

Congressman John Sarbanes

Senator Ed Reilly

Senator Clarence Lam

Delegate Mark Chang

Delegate Sandy Bartlett

Delegate Mike Rogers

County Executive Steuart Pittman

Allison Pickard, Chair Anne Arundel County Council

Sarah Lacey, Councilwoman District 1

From: [REDACTED]
Sent: Sunday, May 31, 2020 11:43 AM
To: Caroline Pinegar
Subject: Re: MDOT MAA Virtual Public Workshop Reminder - May 21, 2020

Caroline and Team:

Thank you all so much for the virtual meeting, so well organized and clarifying. Before the take-down date in June, I made copies for my family of Slide # 6 that shows us in Runway 15L's path. I appreciated the opportunity to do that.

About clearing some trees in advance of your work, we needed to clear overgrowth from the shop Larry built and the septic areas serving the building. It was our pleasure to help the MAA and the pilots with some of the trees in the flight path. It will be a pleasure to watch the tree experts when they take care of the others.

Thanks, too, for the consideration the MAA has shown all of us around the airport in responding to our concerns about noise pollution. (All of us who were parents watching our young ones finally fall asleep after the last loud roar at 11 PM cheered on behalf of those efforts! And when we were finally moved out of the sound and flight path, we were grateful for the respite.) Please pass along my good wishes to all concerned in communicating that consideration to the FAA.

Sincerely,
Barbara Scanlon

-----Original Message-----

From: Caroline Pinegar <cpinegar@hntb.com>
To: Caroline Pinegar <cpinegar@hntb.com>
Sent: Wed, May 20, 2020 5:08 pm
Subject: MDOT MAA Virtual Public Workshop Reminder - May 21, 2020



Virtual Public Workshop for the Re-Issuance of Updated Draft Environmental Assessment and Draft Section 4(f)
Determination for Airport Layout Plan Phase I Improvements
Baltimore / Washington International Thurgood Marshall Airport
Linthicum, Maryland

Feel free to join a few minutes early to give yourself time to sign into the Webex. The presentation will begin at **11:45 AM** and **6:15 PM**.

****Note that the Webex links will also be on the MAA website***
<http://www.marylandaviation.com/content/environmental/environmentaldocs.html> **on May 21st.**

Thursday, May 21st

11:30 AM – 1:30 PM

[JOIN LIVE EVENT \(11:30 AM\)](#)

If joining by phone (audio only), call:

+1-855-797-9485 US Toll free

Access code: 747 499 057

Note: There is no Attendee ID, press # when instructed

6:00 PM – 8:30 PM

JOIN LIVE EVENT (6:00 PM)

If joining by phone (audio only), call:

+1-855-797-9485 US Toll free

Access Code: 740 745 018

Note: There is no Attendee ID, press # when instructed

More information, including details about the virtual public meetings and meeting materials, is available here:
<http://www.marylandaviation.com/content/environmental/environmentaldocs.html>.

If you have technical issues joining the meeting, visit the Webex Frequently Asked Questions at
<https://help.webex.com/en-us/>.

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.

Subject: Trees at BWI Airport

From: Carole Daubert-Mascari <[REDACTED]>

Sent: Monday, June 1, 2020 12:53 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Trees at BWI Airport

I am writing this letter to express my views and thoughts on the beautiful trees around our BWI Airport. I've lived in the Glen Burnie, Pasadena, Linthicum area for the last 60 some years. I worked at the BWI airport with MD National Bank back in the day and also worked in the BWI parking garage as a cashier from 2015 till 2017. The landscape around the airport is very important to the surrounding area and neighborhood. Not only are the trees beautiful, they also help with noise control, air pollution, our wonderful wild animal habitats and the all around community health and well being.

When I lived in Glen Burnie, we had many large oak trees and they were wonderful and beautiful but they also needed to be topped every couple of years. That certainly seems like a better solution to the tree problem. If the trees have to be removed, are they going to be relocated to another part of airport property? Please don't remove one of natures most beautiful and majestic creations. It takes so long for the trees to grow into maturity, so please, please find a better, happier way of clearing the view for landing aircraft.

Thank you for your attention to this serious matter.

Carole Daubert-Mascari

Subject: EA Comments Collected

From: Karen Harrell <KHarrell@bwairport.com>

Sent: Tuesday, June 2, 2020 2:13 PM

To: Robin Bowie <rbowie@bwairport.com>

Subject: EA Comments Collected

Robin,

Comments below are referencing the EA review and public comment collection.

Written 6/2/20 7:54PM

Judy Anderson

[REDACTED]
Linthicum Heights
MD 21090

[REDACTED]

'Its just on-going loud Inoise. I also totally against you taking the trees down at the airport. We have enough noise here. We can hardly live a normal life. This will just make the noise worse with the runups. If there's anything else I can do to stop it, please let me know. Thank you.'

Subject: Save Our Trees

From: Andrea Zamora <[REDACTED]>
Sent: Tuesday, June 2, 2020 1:23:51 AM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Pamela Senator Beidle <Senator.P.Beidle@senate.state.md.us>
Subject: Save Our Trees

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
BWI Airport

Dear Ms. Bowie:

We recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove approximately 1000 additional trees in our community. According to our review of the plan, the environmental impact of the tree removal has not been adequately assessed and addressed.

We have lived in Linthicum for over twenty years and experience the environmental protection provided by the trees in and around the airport. The removal of 83 acres of trees will increase our community's exposure to noise, air pollution, and storm water runoff. Anne Arundel County has suffered the loss of more critical tree canopy than any other county in the State of Maryland. The removal of 83 acres of trees will definitely have a significant detrimental impact.

For the trees you plan to remove on airport property to build a new maintenance facility, there must be a plan to plant replacement trees in other areas of the airport property or as close to the airport as possible. This plan must have community input. Removal of trees in our community must NOT occur. Topping trees to allow safe landing for the planes would reduce negative environmental impact to our community.

Every tree on the airport property and in our community is crucial to the environment and to the quality of life of the residents.

We must each be good neighbors and not engage in actions that have a negative impact on the other.

Sincerely,

Andrea and Ernest Zamora
[REDACTED]
Linthicum, Maryland 21090

CC: Pamela Beidle, District 32

Subject: Proposed BWI Tree Removal

From: Christopher Augelli <[REDACTED]>
Sent: Wednesday, June 3, 2020 8:19 AM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: Proposed BWI Tree Removal

Dear Ms. Bowie,

I agree with the below sentiments expressed by Ms Beidle. BWI has a large effect on the quality of life in the surrounding area, and I appreciate any efforts that can be made, such as those described below, to help further mitigate its noise pollution and overall environmental impact.

Sincerely

Chris Augelli

Millersville

May 28, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for the “virtual meeting” that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport’s plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community’s exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having “no significant impact.”

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,
Pamela G. Beidle
Senator, District 32

CC: Senator Ben Cardin
Senator Chris Van Hollen
Governor Larry Hogan
Congressman Dutch Ruppersburger
Congressman John Sarbanes
Senator Ed Reilly
Senator Clarence Lam
Delegate Mark Chang
Delegate Sandy Bartlett
Delegate Mike Rogers
County Executive Steuart Pittman
Allison Pickard, Chair Anne Arundel County Council Sarah Lacey, Councilwoman District 1

Sent from my iPhone

Subject: Comment

From: Dave Barry [REDACTED] >

Sent: Wednesday, June 3, 2020 4:58 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject:

June 3, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

I recently learned of BWI Airport's plan to cut another 1000 trees plus clearing 80 more acres. We have been in Severna Park for about 22 years and I have concluded the County, airport and State governments want to remove all trees in any way possible. And they have been very successful. I would greatly appreciate the opportunity to vote against the "development" philosophy.

As an aside the past 2 months have been the first and only months since we moved to Chartwell when we could have outdoor conversations that weren't drowned by aircraft noise. Every dark cloud.....

--

Dave Barry

506 Devonshire Lane

Severna Park

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June 3, 2020
Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in the Linthicum area. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As a resident of Anne Arundel County, I live within the environs of the BWI Airport. I know Linthicum is a beautiful, historic community, bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum, as well as Anne Arundel County.

The trees in and around the airport are important environmental protection for all of the surrounding Anne Arundel County communities. The removal of 83 acres of trees increases our community's exposure to noise, air pollution and storm water runoff. I understand that Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Stuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. I believe that the removal of 83 acres of trees is absolutely unacceptable to us all. I cannot understand how you can consider this proposal as having "no significant impact." We all need healthy air to breath; trees are essential to healthy air.

In addition, given the impact that COVID-19 has had to the contraction of the travel industry, I feel the need for the BWI expansion project must be reevaluated.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the wildlife and residents of Anne Arundel County.

Sincerely,
Maureen K. Griffith


Pasadena, MD 21122

Subject: New Construction Proposal

From: Dave Harding [REDACTED]
Sent: Wednesday, June 3, 2020 6:19:46 PM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: New Construction Proposal

I am writing to express my concerns about the 2000+ trees set for removal as part of this project. At the rate we are going, our county won't have any trees left. I love the convenience of BWI and I am glad the people in charge continuously update and improve the facilities. That said, I love the Bay and it's tributaries more. The removal of trees and the replacement with impervious surface is going to create significant runoff and add to the pollution of the Bay. The trees not only help filter the water and absorb it but they also help filter the air pollution that is one of the consequences of the convenience of flying.

There is so much already cleared space in that area and, given the changes that are coming based on the lives we have been living (office space will certainly be cheaper and many building will soon be empty as work from home has proven to be a productive business model for many). Why not save some money and possibly save the environment in the same move? This project is going to take years to complete. Think if you didn't have to clear space and all you had to do was purchase some buildings and remodel those structures. I think it is worth investigating. What if you make all these improvements but all your customers move away because this area loses it's #1 attraction ---- the Bay. Please consider saving the trees and re-evaluating other options for the project.

Thank you,

Dave Harding
Severna Park, Md

Subject: BWI development plan

From: Janet Holbrook [REDACTED]

Sent: Wednesday, June 3, 2020 4:59 PM

To: Robin Bowie <rbowie@bwiairport.com>

Cc: Reilly, Edward Senator (District) <Edward.Reilly.District@senate.state.md.us>; Saab, Sid Delegate <sid.saab@house.state.md.us>; Malone, Michael Delegate <michael.malone@house.state.md.us>; Steuart Pittman <steuarpittmanjr@gmail.com>; Bagnall, Heather Delegate <heather.bagnall@house.state.md.us>; Andrew Pruski <ccprus00@aacounty.org>

Subject: BWI development plan

May 21st, the Maryland Aviation Administration (MAA) held two virtual public workshops to present the current Airport Layout Plan (ALP) which is part of an Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination.

I am writing to object vehemently to the BWI development plan presented to the public in May.

- 2 public presentations in May during a pandemic - no that is not adequate public notice
- 2K trees (83 acres) from the network that is essentially part of the greenways through Anne Arundel County. The gr that is vital to protecting the Chesapeake Bay. Not acceptable, the environmental impact statement is ludicrous. We really need to think of trees as one of our most valuable resources to combat climate change, especially ones that are part of a vital network
- Do you think we might take a pause on airport expansion just now? I know air travel will rebound but it will take some time.
- For my representatives - I hope you are thinking about how to "re-open" w/o everyone driving to work again. We don't need new toll lanes on highways, we found a better solution!

<http://www.lsia.net/news>

Subject: Airport noise

From: Dana Stibolt [REDACTED]
Sent: Wednesday, June 3, 2020 7:34 AM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: Airport noise

Ms. Bowie,

I 100% agree with this letter. The noise from the Airport has grown far too loud. I used to live in Glen Burnie Park a noise zone for the Airport. I now live further away and the noise is about the same to me. Please find a way to save trees at the Airport. The Airport is not doing enough to support the community it shares with the rest of the county.

Dana Stibolt

May 28, 2020
Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

Thank you for the "virtual meeting" that you hosted on May 21, 2020. The purpose of the meeting was to present the current Airport Layout Plan, the draft Environmental Assessment and the draft 4(f) Determination for changes and improvements at BWI Airport. During that meeting, I learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As the District 32 State Senator, I represent the communities that surround the airport - Linthicum, Glen Burnie, Millersville, Severn and Hanover. I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,

Pamela G. Beidle
Senator, District 32
CC: Senator Ben Cardin
Senator Chris Van Hollen
Governor Larry Hogan
Congressman Dutch Ruppersburger
Congressman John Sarbanes
Senator Ed Reilly
Senator Clarence Lam
Delegate Mark Chang
Delegate Sandy Bartlett
Delegate Mike Rogers
County Executive Steuart Pittman
Allison Pickard, Chair Anne Arundel County Council
Sarah Lacey, Councilwoman District 1

Subject: Removal of trees in Linthicum, bwi airport area

From: Kim Taylor [REDACTED] >

Sent: Wednesday, June 3, 2020 6:21:36 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: Removal of trees in Linthicum, bwi airport area

Dear Ms Bowie, I live in Linthicum and have heard of the plan to remove many trees in our area. I am writing to explain how distressing it is to think of the removal of the trees and its impact on our quality of life.

I live not very far from a new housing community that removed trees to build the homes and now I hear noise from the 695 highway. I've lived here 30 years and now I have the noise pollution from that. We also have the light rail very close to our home and that is another noise that's disturbing to the peace and quiet that once was our quiet neighborhood.

Next but not least Next gen has dramatically affected our area, once again very loud jet engine noise day and night. No peace and quiet.

I am asking you to please consider what will happen to our quality of life, to be fair and think of the residents in regard to pollution and air quality and noise.

I am a widow who has lived here 30+ years and this is all I have left. I am pleading to you to stop this plan to remove the trees and let us have some peace.

Thank you,

Kim Taylor

[REDACTED]
Linthicum MD 21090

Subject: BWI Airport Expansion Plans

From: Warren Tignor [REDACTED]
Sent: Wednesday, June 3, 2020 10:31 AM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: amanda.fiedler@aacounty.org
Subject: BWI Airport Expansion Plans

June 3, 2020

Ms. Robin M. Bowie, Director
Office of Environmental Services
Maryland Aviation Administration
Maryland Department of Transportation
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie:

I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in the Linthicum area. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

As a resident of Anne Arundel County, I live within the environs of the BWI Airport. I know Linthicum is a beautiful, historic community, bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum, as well as Anne Arundel County.

The trees in and around the airport are important environmental protection for all of the surrounding Anne Arundel Communities communities. The removal of 83 acres of trees increases our community's exposure to noise, air pollution and storm water runoff. I understand that Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Stuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. I believe that the removal of 83 acres of trees is absolutely unacceptable to us all. I cannot understand how you can consider this proposal as

having “no significant impact.” We all need healthy air to breath; trees are essential to healthy air.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents of Anne Arundel County.

Sincerely,

Warren Tignor



Severna Park, MD 21146

Subject: Protest of Review of Draft EA and Draft Section 4(f) Determination for BWI Marshall for Airport Layout Plan Phase 1 Improvements [4 Attachments]

From: Paul Verchinski <[REDACTED]>
Sent: Wednesday, June 3, 2020 1:36 PM
To: Kim Hughes <khughes@hntb.com>
Cc: Robin Bowie <rbowie@bwairport.com>; Kevin Clarke <KClarke@bwairport.com>; Paul L Verchinski <[REDACTED]>; Paul Shank <PShank@bwairport.com>; Jen Delegate Terrasa <jen.terrasa@house.state.md.us>; Senator Clarence Lam <clarence.lam@senate.state.md.us>; Guy Guzzone <guy.guzzone@senate.state.md.us>

Subject: Protest of Review of Draft EA and Draft Section 4(f) Determination for BWI Marshall for Airport Layout Plan Phase 1 Improvements [4 Attachments]

Consider this an official protest as noted below. In addition to myself there are undoubtedly citizens that could not attend your Virtual meeting due to a lack of Internet or computer capacity or provided accommodations.. you are a State of MD entity and as such need to comply with all MDEPA requirements including the ability for the public to participate in this EA.

On Saturday, May 23, 2020, 10:54:31 AM EDT, Paul Verchinski <[REDACTED]> [HCCA-Board] <hcca-board@yahoogroups.com> wrote:

i am in the demographic that is susceptible to COVID19, 60 and over, so I am not going to areas like your offices per State of MD and Howard County restrictions for COVID19.

As I said in my Email, which apparently was not set up for Emails from outside your agency for requests regarding the draft EA, you now want me to find an old Email. This is outrageous and points up that trying to do a review of the EA during this COVID19 does not allow for full public involvement AS REQUIRED UNDER NEPA.

paul Verchinski

On Friday, May 22, 2020, 9:12:18 AM EDT, Kim Hughes <khughes@hntb.com> wrote:

Mr. Verchinski,

Ms. Bowie advised that you had reached out to me previously by email and that I had not replied. I did not receive an email from you, would you be so kind as to resend your original email so that I can have my IT folks search for it? If your email went through to my spam filter I would like to make sure that it does not happen again.

Ms. Bowie requested that I reach out to you to about setting a time for you to come to the MAA's offices to review the hard copy version of the subject document. In addition to the public libraries, this option for viewing the document has always been available as was stated in the Notice of Availability issued February 6, 2020 for the draft document. MAA's offices are open but with the current COVID 19 requirements for social distancing we'll need to know a specific time during normal office hours (9 AM until 4 PM) that you can make yourself available to continue your review of the document. I am cc:ing Ms. Bowie and Mr. Clarke on this email as they will need to arrange that someone be in the MAA's offices while you are reviewing the document. Please advise of the best time in the near future for you to visit MAA's offices as the close of the comment period is June 4th 2020.

Regards,
Kim

Kimberly C. Hughes, PE

Associate Vice President
Environmental Services

Tel (703) 253-5856 Cell (571) 213-7730 Fax (703) 671-6210

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Posted by: Paul Verchinski 

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Subject: Questions on MAA Draft Environmental Assessment dated Feb 6,2020 on Improvments at BWI Airport

From: Paul Verchinski [REDACTED]
Sent: Wednesday, June 3, 2020 1:46 PM
To: Robin Bowie <rbowie@bwiairport.com>; Paul Shank <PShank@bwiairport.com>; Jen Delegate Terrasa <jen.terrasa@house.state.md.us>; Guy Guzzone <guy.guzzone@senate.state.md.us>; Senator Clarence Lam <clarence.lam@senate.state.md.us>; Paul L Verchinski [REDACTED]
Subject: Questions on MAA Draft Environmental Assessment dated Feb 6,2020 on Improvments at BWI Airport

Unfortunately, I have been unable to complete my review of the draft documents and CDs associated with this EA. This comprises my questions to date.

Paul Verchinski

[REDACTED]
Columbia, MD

----- Forwarded Message -----

From: Paul Verchinski verchinski@yahoo.com [HCCA-Board] <hcca-board@yahoogroups.com>
To: HCCA-Board <hcca-board@yahoogroups.com>
Cc: Deb Jung District 4 Council Member <djung@howardcountymd.gov>
Sent: Saturday, May 23, 2020, 11:03:02 AM EDT
Subject: [HCCA-Board] Fw: Chat is useless, draft EA

My frustration last week with trying to particpate in an on line meeting for the BWI draft EA. I deliberatley copied my comments that I made in Chat since I intend to make similar comments into the public docket. The response below highlights the limitations of using virtual meetings when participants are not recognized by the organizers either deliberately or inadvetantly due to software limitations.

----- Forwarded Message -----

From: Robin Bowie <rbowie@bwiairport.com>
To: Paul Verchinski [REDACTED]
Sent: Thursday, May 21, 2020, 7:54:57 PM EDT
Subject: RE: Chat is useless, draft EA

We saw it Paul. We were trying to run down whether Kim received your email. She did not. We are going to send you a copy. Thanks for emailing me!

Ms. Robin M. Bowie
Director, Office of Environmental Services
Division of Planning and Engineering
Maryland Department of Transportation
Maryland Aviation Administration
410-859-7103 (Office)

rbowie@bwiairport.com

Mailing Address

P.O. Box 8766
BWI Airport, MD 21240

Overnight Shipping Address

991 Corporate Boulevard
Linthicum, MD 21090

From: Paul Verchinski [REDACTED]
Sent: Thursday, May 21, 2020 7:36 PM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Paul L Verchinski [REDACTED]
Subject: Chat is useless, draft EA

I submitted the following and received no response. I wonder how many others submitted and received no response.

"

from Paul Verchinski to all panelists:

83 Acres of Forest Clearing and 2300 Trees are to be removed. MD has requirements for Forest Conservation replanting where some is required on the original property. The MD Forest Protection Act was revised in 2019. How does the tree removal comply with MD Forest Conservation and Replanting requirements?

from Paul Verchinski to Robin Bowie (privately):

I reviewed the hard copy to some extent at the Howard County Library. It had about 400 pages and 2 CDs to review. I was not able to go back and complete my review due to Covid19. I have attempted to continue my review online but have found this to be impossible. I therefore lodge this protest that does not allow the public to be able to constructively review this draft EA. It is only available online and I have a visual disability. I did request by Email to Kim Hughes 'hard copies of the meeting materials as well as the documents currently posted on the website.', but did not receive this.

from Paul Verchinski to Robin Bowie (privately):

I have submitted 2 questions and both have not been addressed"

Posted by: Paul Verchinski [REDACTED]

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Subject: Concerns about Changes and Improvements at BWI Airport

From: Deborah Weller [REDACTED] >
Sent: Wednesday, June 3, 2020 5:42 PM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Don Weller [REDACTED] >
Subject: Concerns about Changes and Improvements at BWI Airport

Dear Ms. Bowie,

The draft Environmental Assessment and the draft 4(f) Determination for Changes and Improvements at BWI Airport proposes to remove 83 acres of trees, including 1,102 trees on private property and 1,228 on airport property. I hope you will support the effort to preserve every tree that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community and the County.

Anne Arundel County has lost a significant portion of its tree cover, increasing the value of every remaining tree including those in and around the airport. Tree canopy plays a crucial regional role in the environment, providing benefits such as clean water and air, erosion prevention, climate control, sustaining ecological resources, and providing native species habitat. Additionally, tree canopy is valuable. Trees increase housing values, alleviate costs of controlling or repairing erosion, decrease spending on sewer standards, increase energy efficiency, and reduce medical costs related to health issues, such as asthma, that are associated with environmental degradation

The trees in and around the airport are particularly important environmental protection for the surrounding communities. But, the direct impacts of tree removal on the local community do not appear to have been adequately accounted for in the analysis. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. The loss of over 2,000 trees will reduce air quality, increase temperatures, and reduce property.

In short, how can the removal of 83 acres of trees have "no significant impact" as stated in the report.

While I understand trees need to be removed to make room for the new maintenance facility and meeting FAA regulations, there must be a master plan for the replanting or replacing the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. The impacted homeowners should be offered new trees (not seedlings) at no cost (including planting). I find it disconcerting that planes will be flying so low over residential areas that a tree could be a hazard. The actual degree to which these trees are hazard needs to be carefully evaluated and clearly articulated to the community. I suggest that removal of any trees be an action of last resort and other options be explored to reduce the loss of any trees.

In my opinion, the environmental impact of the tree removal has not been adequately addressed.

Sincerely

Deborah and Don Weller

Subject: BWI trees

From: Candace Dayton [REDACTED]
Sent: Thursday, June 4, 2020 1:01 PM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: BWI trees

Ms. Robin M. Bowie, Director

Office of Environmental Services

Maryland Aviation Administration

Maryland Department of Transportation

P.O. Box 8766

BWI Airport, MD 21240

Dear Ms. Bowie:

I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

I grew up in Linthicum, about 1 mile north of the airport and now live a few miles away in Glen Burnie. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation – Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,

Candace Dayton

Subject: 83 acres of trees being cut at BWI!

From: [REDACTED]

Sent: Thursday, June 4, 2020 2:14:17 PM

To: Robin Bowie <rbowie@bwiairport.com>

Subject: 83 acres of trees being cut at BWI!

To whom it may concern,

As a resident of Anne Arundel County and a Watershed Steward I was appall when I heard this. We realize that the airport has growing pains but we also need to protect our forest. We are also planting trees in our woods and along our streets to help the environment. Did you know one tree about 18" round can absorb 5,000 gallons of storm water per year.

On 83 acres of property we could be dealing with over 50,000 trees that help the environment. How much storm water is currently being treated by these trees. Sounds like Ellicott City needs to make some plans on moving when all of this water comes there way. **Trees** absorb carbon dioxide as they grow and the carbon that they store in their wood **helps** slow the rate of global warming. They reduce wind speeds and cool the air as they lose moisture and reflect heat upwards from their leaves.

They also provide habitat for the wildlife and they can also block noise's at the airport for the surrounding communities. I firmly believe that companies should be responsible for replanting trees for the ones they say need to be taking down to extend a runway.

Please reconsider your plans and put this on hold.

Thank you for your attention in this matter.

Gary Gakenheimer
President Chestnut Hill Cove HOA
www.ChestnutHillCove.com

Subject: Improvements at BWI Marshall Airport

From: Lynne Rockenbauch [REDACTED]

Sent: Thursday, June 4, 2020 2:13:43 PM

To: Robin Bowie <rbowie@bwiairport.com>

Cc: Matt Johnston <exjohn00@aacounty.org>; countyexecutive@aacounty.org <countyexecutive@aacounty.org>

Subject: Improvements at BWI Marshall Airport

Ms. Robin M. Bowie
Maryland Aviation Administration
Director Office of Environmental Services

Dear Robin Bowie;

I just recently learned about this project and have not had time to fully digest all the videos and other information that you have provided on the web, so I just want to let you know my concerns about the project for improvements at BWI Marshall Airport and why I am concerned. I am a life-long resident of Anne Arundel County, mainly in Severna Park. I have lived here over 65 years and understand the value of having the airport here. My father retired from Northrup Grumman and my husband and I have retired from the National Security Agency. I have no issue with the need for this project. My issue is with the idea that there is no significant environmental impact. That is just wrong. There will be a **huge** environmental impact. I have been trained as a Master Watershed Steward at the county Watershed Stewards Academy and have worked for over 10 years to improve the health of our county rivers and streams. I was president of the Severn River Association for four years and continue to help residents near county rivers and streams, including the Patapsco. I plant trees, maintain rain gardens, and advocate for public behavior change to benefit not only the rivers, wetlands, and streams, but the wildlife and people who benefit from clean water.

Please work with the county in mitigating the loss of 83 acres of forest on the property as well as the trees being removed throughout the Linthicum neighborhood. Trees remove air pollution. They act as noise buffers. Trees reduce pollutants from stormwater, which are currently way too high and causing algae blooms and fish die-offs. Trees provide shade to cool the people, wildlife, and streams nearby. The state health department has stated that trees provide stress relief for neighbors who look at them, relax under them, and exercise around them. If they are being removed for structures, that may be unavoidable, but can be minimized and mitigated in a variety of way. If they are being removed to clear flight paths, perhaps they can be replaced with a different variety of tree which would not grow so high. See <http://aawsa.org/replant> for more information about why the county has a program to plant over 4,000 trees. What a shame that this one project is going to remove almost that many. This project was not anticipated. How do we maintain hope of restoring our county waterways?

Streams, wetlands, and floodplains are all integral parts of the health of our rivers and ultimately the Chesapeake Bay. Any disturbance to any of these can take years to recover. All have special jobs to do in maintaining a healthy environment for all of us. Streams, especially cooled by trees, are home to fish and amphibians, often unseen, that thrive on the insects and invertebrates that live in flowing water. Wetlands are similar and have a whole different set of creatures that depend on them. Floodplains have a purpose to slow down the flow of water to minimize erosion during storms. All of these lose their effectiveness when disturbed resulting in the degradation of our rivers and the bay.

Again I urge you to work with County Executive Pittman and his environmental staff to come up with a better plan for this project to minimize damage done to the environment and to mitigate that damage which must be done.

Lynne Rockenbauch



Severna Park, MD 21146

Sent from [Mail](#) for Windows 10

Subject: Please limit environmental impact due to expansion!

From: rebecca tocknell [REDACTED]
Sent: Thursday, June 4, 2020 7:07:50 PM
To: Robin Bowie <rbowie@bwiairport.com>
Subject: Please limit environmental impact due to expansion!

June 4, 2020
Ms. Robin M. Bowie
Maryland Aviation Administration
Director Office of Environmental Services
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie,

We urge the public comment period for the Environmental Assessment of the Phase I airport expansion to be extended due to the devastating effect of the pandemic on community organization and awareness activities. We believe this project is large enough that the virtual public sessions you held to be inadequate for gathering public feedback.

We disagree with your initial assessments that no significant environmental impacts will be felt with your preferred alternative. The excessive clearing of forest proposed is unacceptable to the health and goals of our local communities. It is unlikely that the noise and pollution effects felt by the community will be overcome by economic and safety gains felt by the airport patrons.

Please allow more time and independent analysis of these effects. Thank you for providing a platform for public feedback.

Sincerely,

Rebecca Tocknell
--
Becky Tocknell
[REDACTED]

Subject: Feedback on Environmental Impact of Airport Expansion
Attachments: Letter Airport Expansion GHCCA 2020.06.04.docx

From: Jasmine Serlemitos [REDACTED]
Sent: Thursday, June 4, 2020 10:12:45 PM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Joyce Rosencranz [REDACTED]; Gregory, John <Gregory.John@epa.gov>; Stephen Bradford <[REDACTED]>; Steven Kratzer <[REDACTED]>; Zablony Mark [REDACTED]; Maureen Turman [REDACTED]; Janet Holbrook [REDACTED]; Billy Moulden [REDACTED]

Subject: Feedback on Environmental Impact of Airport Expansion

Ms. Bowie,
Please find out feedback attached.

Sincerely,

Jasmine Wilding
GHCCA Board member
<https://generalshighwaycouncil.org/>

June 4, 2020

Ms. Robin M. Bowie
Maryland Aviation Administration
Director Office of Environmental Services
P.O. Box 8766
BWI Airport, MD 21240

Dear Ms. Bowie,

The General Highway Council of Civic Associations (GHCCA) urges that the public comment period for the Environmental Assessment of the Phase I airport expansion be extended due to the devastating effect of the pandemic on community organization and awareness activities. We believe this project will have huge effects on the public welfare and our environment. Virtual hearings alone are inadequate for gathering sufficient public feedback.

We disagree with your initial assessments that no significant environmental impacts will be felt with your preferred alternative. The excessive clearing of forest proposed is unacceptable to the health and goals of our local communities. It is unlikely that the negative noise and pollution effects on the communities will be outweighed by economic and safety gains.

Please allow more time and independent analysis of your proposal.

Thank you for providing a platform for public feedback.

Sincerely,

Jasmine Wilding
on behalf of the GHCCA board

Subject: BWI tree removal response needed by 5PM today (UNCLASSIFIED)

-----Original Message-----

From: Perry, Faith A CTR DISA SE (USA) [REDACTED]
Sent: Monday, June 8, 2020 7:59 PM
To: Robin Bowie <rbowie@bwiairport.com>
Cc: Dayton, Candace E CIV (USA) [REDACTED]
Subject: FW: BWI tree removal response needed by 5PM today (UNCLASSIFIED)

Sorry - I'm days behind on email ;-)

Faith Perry
[REDACTED]

-----Original Message-----

From: Dayton, Candace E [REDACTED]
Sent: Thursday, June 4, 2020 12:56 PM
To: Perry, Faith [REDACTED]
Subject: BWI tree removal response needed by 5PM today (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Could you please copy and paste this letter to rbowie@bwiairport.com

Ms. Robin M. Bowie, Director

Office of Environmental Services

Maryland Aviation Administration

Maryland Department of Transportation

P.O. Box 8766

BWI Airport, MD 21240

Dear Ms. Bowie:

I recently learned of BWI Airport's plan to remove 83 acres of trees on the BWI Airport property and the plan to remove about 1000 additional trees in our community. In my opinion, the environmental impact of the tree removal has not been adequately addressed.

I live in Linthicum, less than 1 mile north of the airport. Linthicum, a beautiful, historic community, is bordered not only by BWI but surrounded by all modes of transportation - Amtrak, Light Rail, and Routes 695 and 295. The noise and pollution generated by all of these modes greatly impact Linthicum and the surrounding communities.

The trees in and around the airport are important environmental protection for all of the surrounding communities. The removal of 83 acres of trees increase our community's exposure to noise, air pollution and storm water runoff. Anne Arundel County has lost more critical tree canopy than any other County in the State of Maryland causing the Anne Arundel County Executive, Steuart Pittman, to recently introduce legislation to conserve more trees in Anne Arundel County. The removal of 83 acres of trees is absolutely unacceptable to the surrounding communities, I cannot understand how you can consider this proposal as having "no significant impact."

While I understand trees need to be removed to make room for the new maintenance facility, there must be a master plan for the replant/replacement of the removed trees. The replacement trees should be planted in other areas of the airport property or as close to the airport as possible. I suggest that removal of any trees be an action of last resort, consider topping trees to allow safe landing for the planes and explore any other option possible but the trees should not be removed.

Please help us to preserve every tree at the airport that can possibly be preserved. Every tree on the airport property and in the surrounding communities is important to the health and well-being of the residents in this community.

Sincerely,

Faith Perry,

CLASSIFICATION: UNCLASSIFIED

Attachment 5:

Updated Draft EA Virtual Public Workshop Comment and Response Matrix

May 21, 2020

**Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020**

Please note that the responses provided reflect the responses given live during the Virtual Public Workshops on May 21, 2020. Any additional response not specifically provided during the workshops is provided in brackets [] and *italicized*.

| # | Commenter | Time | Topic | Comment | Response | Status |
|---|--------------|----------|---------------------|--|--|------------|
| 11:30 AM – 1:30 PM Public Workshop “Chat” Comments | | | | | | |
| 1 | Lewis Taylor | 12:29 PM | Consultation | Why was Anne Arundel County consulted but not Howard County? | Anne Arundel County was consulted because BWI Marshall Airport is located in Anne Arundel County, and also because the Section 4(f) resources that would be impacted by the Proposed Action are both under the jurisdiction of Anne Arundel County. Andover Park is owned by the Anne Arundel County Department of Recreation and Parks (DRP); and the BWI Trail was built and is maintained through a Memorandum of Understanding (MOU) between MDOT MAA, Anne Arundel County DRP, and the Maryland Department of Transportation’s State Highway Administration. Section 4(f) of the Department of Transportation Act requires concurrence from the “official with jurisdiction” over the 4(f) resources when making a <i>de minimis</i> determination. Thus, Anne Arundel County DRP was consulted for its agreement that the proposed improvements would not adversely affect the BWI Trail or Andover Park. Neither of the resources impacted are under the jurisdiction of Howard County. While the 2018 existing conditions DNL 65 db noise contour extends minimally into Howard County, the Proposed Action for this Updated Draft EA and Section 4(f) document does not influence operations into and out of BWI Marshall, flight tracks, track use, or runway use. The only difference between the Proposed Action and No Action Alternatives is a potential increase in aircraft maintenance run-up operations at the proposed Airline Maintenance Facility in the northwest quadrant of the Airport. Thus, an identical number of flight operations, with the exception of run-up operations, are included in the No Action, 2015 ALP, and Sponsor’s Preferred Alternative aircraft noise model. There will also not be any significant noise impacts in accordance with FAA Order 1050.1F, B-1.4, off airport property on noise sensitive land uses, inclusive of Howard County. <i>[For this reason, the Area of Potential Effects (APE) utilized for Section 106 purposes did not extend into Howard County.]</i> | No change. |
| 2 | Joel Connor | 12:31 PM | Obstruction Removal | How are the trees being removed? Or are they being trimmed? | Depending on the location and the purpose of the tree removal, there are multiple methods of tree removal or alteration. Prior to the removal or alteration of any tree on private property, MDOT MAA expects to negotiate individual easements, at appraised fair market value, with each impacted landowner. As part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. In some cases, easements on properties of concern already exist. For tree removal needed on private property for Code of Federal Regulations (CFR), Title 14, Part 77 <i>Safe, Efficient Use, and Preservation of the Navigable Airspace (Part 77)</i> purposes, the method of tree removal (or trimming) is determined on a case by case basis. The FAA’s preference is to remove the tree completely so that it does not grow back and once again become an obstruction, however each property is a separate case. MDOT MAA will work with homeowners and foresters to determine what type of tree it is, to determine the health of the tree, how the tree would respond to trimming (e.g., if it would grow higher/faster), and intends to work with | Complete. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|---|--------------|----------|-------|--|--|------------|
| | | | | | <p>individual landowners to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.).</p> <p>On airport property, approximately 48 acres of obstruction removal on Airport property are needed to meet Part 77 requirements and will not be mitigated. Approximately 35 acres of on-airport trees would therefore be cleared (and mitigated) for the relocation of the fire training facility (6 acres), the construction of the airline maintenance facility (25 acres), and to allow the safe operation of the VORTAC (4 acres). For this non-Part 77 related forest clearing, MDOT MAA will adhere to the Maryland Forest Conservation Act to meet forest mitigation requirements. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered.</p> <p><i>Section 5.2.5, Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> | |
| 3 | Lewis Taylor | 12:32 PM | Noise | The 65 DNL noise contour goes into Howard County. Was Howard County consulted in the 2018 Draft EA you are relying on? | <p>No, Howard County was not consulted in the 2018 Draft EA as there was no requirement to do so. However, responses to comments from Howard County on the 2018 Draft were provided in the appendix of the Updated Draft EA.</p> <p><i>[Following the 2018 Draft EA, Appendix K-4: NextGen DC Metroplex Post-Implementation Revisions and Potential Impacts on BWI Marshall EA Noise Contours was developed specifically in response to Howard County comments on the Draft EA. The Draft EA was updated and recirculated to provide additional opportunity for the public, including Howard County, to weigh in on responses to previous comments.]</i></p> <p>The DNL 65 dB noise contour does extend over compatible land uses, as guided by the FAA’s Advisory Circular 150/5020-1, Appendix 1, <i>Noise Control and Compatibility Planning for Airports</i>, into Howard County. The purpose of the noise analysis in the EA, however, is to identify existing noise levels and compare future noise levels with and without the Proposed Action. In Howard County, there is no change between the Proposed Action vs. No Action, thus there was no need to consult with Howard County specifically for the 2018 Draft EA. An identical number of flight operations, not including run-up maintenance operations, are included in the No Action, 2015 ALP, and Sponsor’s Preferred Alternative aircraft noise model. Due to modeling the potential future increase in run-up operations, the noise contour is projected to expand outwards around the area between Runway 10 and 15R. This is because the Proposed Action includes an Airline Maintenance Facility where aircraft engine maintenance run-up operations may occur. As was discussed in the virtual public workshop, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall. The noise introduced by the engine run-up activity, should it occur, would be expected to change the noise environment near the proposed Airline Maintenance Facility only. Moreover, the</p> | No change. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|---|--------------|----------|-----------------------------|---|--|------------|
| | | | | | noise levels did not demonstrate any significant noise impact on any resources in Howard County. | |
| 4 | Joel Connor | 12:32 PM | Obstruction Removal | Are the stumps being ground down and will the ground be graded to contour to existing ground level? | As part of the easement negotiation process, MDOT MAA will work with each property owner to determine the method of tree removal or alteration. Where trees must be removed, if desired by the property owner, tree stumps may be ground down below the surface, regraded, seeded, and returned to a natural setting. | No change. |
| 5 | Joel Connor | 12:34 PM | Obstruction Removal | We have an agreement to replace the trees if removed, do we have that option? Are there other options if we don't want or need another tree? | Yes, MDOT MAA will work with each homeowner to balance the needs of the Airport and the homeowner. MDOT MAA will not force owners to replace trees. Also see Response to Comment #2. | No change. |
| 6 | Lewis Taylor | 12:36 PM | Noise | MAA has challenged flight path changes in federal court. If those changes are reversed, wouldn't the Proposed Action alternatives cause significant impacts? | <p>The Proposed Action analyzed in the BWI Marshall EA does not influence operations, flight tracks, track use, or runway use. Future changes in flight paths may cause different and perhaps significant noise impacts in certain areas compared to noise impacts from existing procedures, but those impacts would be the result solely of those new flight paths and not the Proposed Action. The FAA's decision to implement Performance Based Navigation flight procedures is unrelated to the proposed improvements included in the EA and Section 4(f) Determination and therefore is not the focus of the EA or the Proposed Action.</p> <p>The proposed improvements reviewed in the Updated Draft EA and Draft Section 4(f) Determination are not related to the past changes to flight tracks associated with the FAA's Washington D.C. Optimization of the Airspace and Procedures in the Metroplex. The federal environmental review of the DC Metroplex was completed in 2013.</p> <p>The DC Metroplex BWI Community Roundtable (BWI Community Roundtable) has proposed procedural changes that are being reviewed by the FAA; if the FAA accepts those procedures and reverses procedures implemented as part of the DC Metroplex, the FAA will have to complete an environmental review (i.e., CATEX, EA or EIS) of those procedures to determine if there are significant impacts. MDOT MAA cannot speculate about possible future flight procedures proposed by the BWI Community Roundtable, the FAA, or others. If new procedures are implemented and the FAA conducts their environmental review and approves them, any subsequent environmental documents that MDOT MAA conducts will include those new procedures. <i>[However, any potential new flight procedures are unrelated to the Proposed Action evaluated in this Updated Draft EA and Section 4(f) Determination for ALP Phase I Improvements.]</i></p> | No change. |
| 7 | Dan Woomer | 12:37 PM | Maintenance Facility/ Noise | With the new maintenance facility, and the increasing number of aircraft maintained, is there consideration of, or does the current planning include a sound deflection structure to reduce the engine run-up noise disturbing the local communities? | There is currently no proposal to have a shielding structure near the proposed airline maintenance facility. Due to modeling the potential future increase in run-up operations, the noise contour is projected to expand outwards around the area between Runway 10 and 15R. This is because the Proposed Action includes an Airline Maintenance Facility where aircraft engine maintenance run-up operations may occur. As was discussed in the virtual public workshop, the estimate of potential future run-up operations that were modeled is | No change. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|----|--------------|----------|---------------------|---|--|------------|
| | | | | | conservative, meaning likely higher than will be realized at BWI Marshall The noise introduced by the engine run-up activity, should it occur, would be expected to change the noise environment near the proposed Airline Maintenance Facility only. The expanded noise contour is almost entirely on airport property and is entirely within compatible land uses. If, in the future, the run-up operations increase to a number that causes a change in noise off airport property (or to incompatible land uses), MDOT MAA may consider the potential benefit of the use of structures to reduce ground noise. | |
| 8 | Lewis Taylor | 12:40 PM | Noise | Why is there no mention of the controversy regarding flight path changes and the resulting noise impacts? | See Response to Comment #6. As stated, the purpose of the analysis in the EA (including the noise analysis) is to compare potential impacts with and without the Proposed Action projects. This includes noise levels with and without the Proposed Action projects. Additionally, independent of this EA, MDOT MAA is undertaking a number of programs and activities to address aircraft noise. These include serving as a technical advisor to the BWI Community Roundtable, which is addressing changes associated with the FAA's NextGen program; restarting the Residential Sound Insulation Program; permanent and portable noise monitoring, regular flight track monitoring, and comprehensive noise complaint tracking and response. Additionally, separate public outreach has been established by MDOT MAA in response to the DC Metroplex and information is available on MDOT MAA's community relations website (http://www.maacommunityrelations.com/). | No change. |
| 9 | Lewis Taylor | 12:41 PM | Noise | I am not asking about future new changes. I am asking about the changes MAA told a federal court are unlawful and which you are relying on for existing conditions. Why was that not addressed? | See response to Comment #6. | No change. |
| 10 | Joel Connor | 12:45 PM | Obstruction Removal | When will the tree removal start on "off airport property"? | Additional coordination will be conducted with all property owners prior to any tree removal. If the FAA issues a Finding of No Significant Impact on this EA, MDOT MAA would begin coordination first with homeowners with existing aviation easements. MDOT MAA will first confirm whether the trees are in fact obstructions or have the potential to grow into an obstruction. If the trees <i>are</i> obstructions or are not mature in that they have the potential to become obstructions, the timing and means for removal of these trees will be determined, but it is expected that the soonest that tree removal would occur is more than a year away. For those without existing aviation easements, the Real Estate easement coordination process will still need to occur with property owners which includes a survey of the tree(s), fair market value appraisal, negotiation, a plan for removal, etc. Any tree removal for properties that do not yet have aviation easements is likely 1.5 to 2 years away. Tree removal on private property will likely occur in logical stages, or phases based on the type of removal to occur, geographic locations, etc. | No change. |
| 11 | John Morenz | 12:50 PM | Obstruction Removal | What height will the off airport trees be cut to? | The height the trees would be cut to for off-airport trees, and also on-airport trees within Part 77 surfaces, depends essentially on the distance from the | No change. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|----|--------------|----------|-----------------------------|---|---|------------|
| | | | | | <p>airport. The tree removal needed on airport property or off airport property for safety removal would occur in accordance with heights based on the Federal Aviation Regulation Part 77 requirements. Part 77 defines imaginary surfaces that, when free of obstructions, provide for the safe operation of aircraft into and out of airports. MDOT MAA must clear these Part 77 imaginary surfaces to meet obligations to the Federal government.</p> <p>With the use of Part 77 surfaces, which generally slope up and away from the runway, properties closer to the Airport may require trees be cut lower; the farther the property, the higher the imaginary surface. Trees are cut to at least 10 feet below these surfaces to prevent future growth from again becoming an airspace obstruction. Additionally, with consultation from foresters to understand the type, size, and health of the tree, the determination would be made as to the feasibility of trimming/topping the tree or if removal is warranted.</p> | |
| 12 | Joel Connor | 12:51 PM | Noise & Obstruction Removal | Thank you for your answers, have they determined the noise level for the residences after the tree removal? | <p>The noise level after tree removal was not evaluated for the EA as the effect of selective tree removal is not expected to change the noise levels associated with aviation activity. In general, a noise barrier, which can sometimes be vegetation, is generally effective for highway noise (ground noise or lateral noise source) but not for airborne noise (vertical noise source) from aircraft landing or taking off. MDOT MAA understands that the selective tree clearing would reduce the density of forest stands in some areas, however existing visual vegetation barriers would remain in place between residential properties and the Airport. Tree removal on airport property will take place near runways and within interior areas of the Airport's main campus, also maintaining the vegetative barriers that exist today between nearby residential areas. For tree removal discussion on the MAA-owned parcel just north of the Airport, see response to Comment #16.</p> <p><i>[In addition, noise levels after tree removal were not evaluated in the EA as ground noise attenuation is not modeled.]</i></p> | No change. |
| 13 | Lewis Taylor | 12:52 PM | Noise | You skipped my question, why was there no mention of controversy? | <p>See response to Comments #6 and #8. The projects in this EA do not involve changes to operations into or out of BWI Marshall, flight tracks, track usage, or runway usage and are unrelated to the FAA's DC Metroplex project and previous implementation of new airspace procedures. In the appendix of the Updated Draft EA and Draft Section 4(f) Determination, comments on the January 2018 Draft EA (the version prior to the Updated Draft EA), Howard County's comments and responses to those comments are included. The controversy associated with the FAA DC Metroplex procedures are separate from the projects included in the Proposed Action for this EA.</p> | No change. |
| 14 | Lewis Taylor | 12:52 PM | Noise | Is controversy not part of existing conditions? | <p>See response to Comments #6, #8 and #13.</p> | No change. |
| 15 | Dan Woomer | 12:52 PM | Noise | Current run-up noise levels, especially early in the morning, is already having a disturbing impact on the neighboring communities. With more aircraft coming, the number of noise impact events will only increase. And, the answer we just received was "It shouldn't be a problem?" It already is a problem. Why not sound barriers? | <p>See Response to Comment #7.</p> <p>The Proposed Action does not induce demand and does not influence the number of aircraft coming into and out of the Airport. The only difference in noise impacts between the Proposed Action and No Action Alternatives is a potential future increase in aircraft maintenance run-up operations at the</p> | No change. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|----|--------------|----------|---------------------|---|--|------------|
| | | | | | <p>proposed Airline Maintenance Facility in the northwest quadrant of the Airport. In addition, there are currently limited run-up operations ongoing at various locations on Airport property, some of which may be moved to the New Airline Maintenance Facility. This area of increased noise exposure is north of Runway 10, which is mostly contained with Airport property and is entirely within compatible land uses. As was discussed in the virtual public workshop, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall</p> <p>To be considered a significant noise impact and qualify for mitigation, the Proposed Action would need to result in an increase of 1.5 dB day night average sound level (known as DNL), or more over a noise sensitive area that is already exposed to noise at or above the 65 DNL exposure level OR that will become exposed to the 65 DNL due to a 1.5 DNL or greater increase when compared to the No Action alternative for the same timeframe. Noise sensitive sites include residential units, schools, places of worship and historic sites. It was determined that no additional noise sensitive sites are introduced within the 65 DNL contour for the Proposed Action as compared to the No Action. Additionally, the Proposed Action would not cause a significant noise increase over noise sensitive sites already within the 65 DNL contour as compared to the No Action contours.</p> <p>There are currently very few engine maintenance run-ups that occur at BWI Marshall, however ground noise from aircraft is a definite issue and it is known that this type of noise travels to surrounding communities.</p> <p>Separate from the EA, MDOT MAA has researched mitigation in the form of noise barriers and found that this type of noise deflection was met with community concerns and would provide only limited benefit. MDOT MAA continues to research and evaluate ways to meaningfully reduce noise to surrounding communities.</p> | |
| 16 | Joel Connor | 12:54 PM | Obstruction Removal | Are they clear cutting the area owned by the airport north of the airport off of Main and White Ave | MDOT MAA's intent is to not clear cut this specific area but to leave as many trees as possible. They will work with the foresters and MDNR to address the trees in this area and leave the shorter healthy scrub/shrub trees and only remove the trees that are a Part 77 obstruction concern. Additionally, before any tree removal occurs, more detailed tree surveys will be undertaken of individual trees to determine what must be removed. | No change. |
| 17 | Lewis Taylor | 12:56 PM | Noise | Panel said Proposed action does not make flight path changes but does it cause noise changes? Did you study cumulative impacts of noise related to the flight path changes MAA challenged in court? | <p>See Response to Comment #6.</p> <p>In response to the study of cumulative impacts, yes, the procedures implemented as part of the Metroplex are included in the Updated Draft EA since these are the existing conditions, and are also carried forward as the future conditions, as no reversals or changes have been approved or implemented at this time. If new procedures are implemented and the FAA conducts their environmental review and approves them, any subsequent environmental documents that MDOT MAA conducts will include those new procedures. Nonetheless, the BWI Marshall EA's direct impact analysis is focused on the potential environmental impacts of the Proposed Action.</p> | No change. |

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| | | | | | [In addition, the Proposed Action analyzed in the BWI Marshall EA would not have a cumulative impact on noise, as it does not influence operations, fleet mix, flight procedures, track use, or runway use.] | |
| 18 | John Morenz | 12:58 PM | Obstruction Removal | Will Andover gardens be clear cut? Airports property... | See response to Comment #16. | No change. |
| 19 | Lewis Taylor | 1:03 PM | Noise | Thanks for your answers. I am asking this one for the third time. Why is there no mention of the controversy regarding flight path changes and the resulting noise impacts? | See responses to Comments #6, 8, 13 and 17. Note that the responses to comments from the January 2018 Draft EA were included as an appendix to the Updated Draft EA and Draft Section 4(f) Determination. This included responses to comments posed by Howard County. | No change. |
| 20 | Joel Connor | 1:04 PM | Obstruction Removal | So this has nothing to do with the new GPS system, what is the reasoning behind the tree trimming since the radar is not used anymore? | The Part 77 airspace protection standards are not related to the type of navigation equipment used. Regardless of whether it is a GPS-based system or a ground-based system, Part 77 surface standards are required for purposes of safety in the air and on the ground. These are the “imaginary” protective surfaces that slope up and away from the runways that are being protected and that is what determines the amount of obstruction removal. | No change. |
| 21 | Lewis Taylor | 1:09 PM | FAA Standards | You mentioned the proposed action is due to FAA ALP standards. Is BWI currently in violation of the law? | No, BWI Marshall is not in violation of the law. MDOT MAA continually works with FAA inspectors to ensure safe and efficient operations of the airfield. Standards, design guidance and best practices change over time. The Airport is obligated to do their best to meet those standards before any hazards become a serious safety issue. | No change. |
| 22 | Lewis Taylor | 1:12 PM | COVID | Will the needs review be updated because of anticipated decreased use of the airport in the wake of the pandemic? | MDOT MAA recognizes the unprecedented impacts that the COVID 19 pandemic has had, and also understands that the pandemic will continue to affect activity levels at BWI Marshall for an uncertain amount of time. As discussed in the purpose and need for the improvements, the majority of improvements are not connected to activity level but are needed to meet FAA standards and to enhance airfield safety and efficiency. In addition, if there is no demand to build certain facilities when funding is available, they would not be built. For the time being, since no one knows the nature of the recovery, MDOT MAA is maintaining the existing aviation forecast. | No change. |
| 23 | Lewis Taylor | 1:15 PM | COVID (follow up) | Is any of the answer given about decreased use in the Draft EA? | Discussion of the impacts of COVID 19 on the Proposed Action will be added to the upfront information of the Final EA after discussion with the FAA. <i>Chapter 1, Purpose and Need, Section 2.1.2, Need</i> of the Final EA has been updated to address the impacts of COVID-19. | Complete. |
| 24 | Joel Connor | 1:22 PM | Obstruction Removal | Can we see the slide with the tree removal please? | [Slide was shown]. | No change. |
| 6:00 – 8:30 PM Public Workshop “Chat” Comments | | | | | | |
| 25 | Cisneros | 6:42 PM | Environmental Impacts | I misunderstood your advertising for this meeting and thought you would discuss environmental impact of operations at BWI on local residents- pursuant to recent legislation granting UMD approval to study this- are any of your EA related to that in any way? Second question- do any of your EA studies consider impact on residents? Tia. | The purpose of the EA and this meeting is to evaluate potential environmental impacts to resources and residents due to the Proposed Action. The projects included a number of airport improvements to meet current Federal Aviation Administration design standards, enhance airfield safety and efficiency, accommodate existing and anticipated passenger demand, and improve | No change. |

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| | | | | | <p>customer service. Other studies considering the impact of aviation noise are not within the scope of this project.</p> <p><i>[All FAA NEPA documents consider impacts to residents in accordance with FAA Order 1050.1F, which includes impacts related to aircraft noise resulting from the Proposed Action being evaluated. For aviation noise analyses, the FAA has determined that the cumulative noise energy exposure of individuals to noise resulting from aviation activities must be established in terms of Day Night Average Sound Level (DNL). DNL is a measurement of annoyance, which is a summary measure of the general adverse reaction of people to noise that causes interference with speech, sleep, the desire for a tranquil environment, and the ability to use the telephone, radio, or television satisfactorily. Health impacts due to aircraft overflights are not included in this EA.]</i></p> | |
| 26 | Dan Woomer | 6:50 PM | Obstruction Removal; Noise; Stormwater | <p>The current planning includes the removal of over 2,000 trees in and around the Linthicum community. And, you stated there should be no significant increase in the noise pollution in our community. With the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, please explain how the noise pollution in our community will not intensify?</p> <p>And, with the removal of all of these trees and the clear cutting of 83 acres, how will the increase in rain/storm water runoff be mitigated, given the significant increase already experienced from all the land development all along West Nursery Road? Do the current plans include reforestation? If so, where in Linthicum will trees be replanted?</p> | <p>See Responses to Comments #2, 7, 12, 15 and 27.</p> <p>As discussed in previous comments, MDOT MAA intends to use selective tree removal where possible rather than clear cutting. However, all tree removal will be coordinated with the property owners and the method of removal would ultimately consider the property owner’s preferences (see response to Comment 4). for Part 77 tree removal. In looking at how this will occur, the removal of trees will be in stages, or phases. The specific trees within MDOT MAA’s property are shown on the EA graphics and were available for viewing on the MAA’s website. On private properties, MDOT MAA again intends to use selective tree removal. In terms of the new airline maintenance facility and potential run-up operations, the area with increased noise exposure is mostly on airport property or on adjacent compatible land uses. Additionally, the estimate of potential future run-up operations modeled is conservative, meaning likely higher than will be realized at BWI Marshall</p> <p>As part of MDNR project approval, forest mitigation is required for non- Part 77 obstruction removal. The forest mitigation requirements will be met through placement of forest conservation easements on existing MDOT MAA-owned forest areas, including areas containing wetlands of special state concern (WSSC). As it relates to stormwater run-off, each of the projects will include stormwater management that is designed to meet MDE water quality and quantity requirements. Particularly for the two projects with large tracts of tree removal (New Airline Maintenance Facility and Relocation of the Fire Training Facility), part of the stormwater management design is that these projects must prove that the runoff volume post-construction of the project remains at the same level or below the volume prior to construction. Additionally, in areas where trees must be removed for Part 77 purposes (and where other new projects do not require tree removal), tree stumps will remain in place in order to reduce sediment and erosion.</p> <p><i>Section 5.2.5, Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> | Complete. |

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| 27 | Sen. Pamela Beidle | 6:51 PM | Obstruction Removal | I am confused by the 83 acres of trees. How many trees will be removed from private property? Where can I see a better map? | <p>As identified and described in the Draft Environmental Assessment and Draft Section 4(f) Determination (Draft document) approximately 48 acres of tree clearing on Airport property are needed to meet Part 77 requirements. Pursuant to the Annotated Code of Maryland, Natural Resources §5-1602(b)(11), no mitigation under Maryland’s Forest Conservation Act is required for removal of forested areas or individual tree obstructions within these imaginary surfaces and therefore the clearing of these 48 acres of obstruction removal on Airport property are needed to meet Part 77 requirements and will not be mitigated. Approximately 35 acres of on-airport trees would be cleared (and mitigated) for the relocation of the fire training facility (6 acres), the construction of the airline maintenance facility (25 acres), and to allow the safe operation of the VORTAC (4 acres). For this non-Part 77 related forest clearing, MDOT MAA will adhere to the Maryland Forest Conservation Act to meet forest mitigation requirements. The individual trees that are identified as obstructions, again under Part 77, both on airport and off airport property, will be selectively removed or altered.</p> <p>Forest mitigation requirements are proposed to be met through placement of Forest Conservation Easements on MDOT MAA-owned forests within and surrounding the Stony Run Wetlands of Special State Concern (WSSC) area. The Stony Run WSSC area is located just west of Aviation Boulevard in proximity to the proposed Airline Maintenance Facility and within the watershed of the remaining proposed projects. The mitigation for the 35 acres of clearing equates to approximately 112 acres of mitigation for removal of forested areas as well as land disturbance for individual projects that exceed 40,000 square feet (regardless of whether forest resources are present).</p> <p>Approximately 1,100 individual trees are also identified to be removed off-airport property on private property for safety purposes due to Part 77 obstructions. Note that there will still be more review of any tree marked for removal prior to any action being taken. Following approval of the environmental document, MDOT MAA will need to work through the necessary right to enter private property so as to confirm whether the trees are in fact obstructions or have the potential to grow into an obstruction. If the trees are in fact obstructions, the timing and means for removal of these trees will be determined, but we expect that any removal is still more than a year away.</p> <p>All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MAA Environmental website from February 6th to June 4th, 2020 at http://www.marylandaviation.com/content/environmental/environmentaldocs.html.</p> <p>Section 5.2.5, <i>Biological Resources, Mitigation</i> has been updated and Figure 5.2-5 (related to forest conservation in WSSC) has been added to the Final EA for additional clarification.</p> | Complete. |
| 28 | Mike Huddleston | 6:53 PM | Noise | Other than the proposed increase of 1.5 dBs in the DNL value, I've heard concerns about the environment, improvements to the airport needed to | See responses to Comments #6, 8 and 38. | No change. |

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| | | | | <p>improve passenger experience. What about the impacts, if any, from these improvements on the surrounding communities? Next Gen increased dB levels significantly for many surrounding communities. These 1.5 dB increases will be above and beyond Next Gen increases. What steps are being taken to mitigate the impact of the increased noise?</p> | <p>The future noise conditions (noise contours) grow in 2027 compared to 2022. This is not due to the Proposed Action, however. Regardless of the proposed improvements, operations are forecast to continue to grow as there are no constraints to continued growth, i.e., the airfield, general aviation, terminal, landside, and support facilities can accommodate additional operations without improvements. None of the proposed improvements would materially affect BWI Marshall Airport’s ability to accommodate overall aircraft operations demand that would occur regardless of the improvements.</p> <p>In response to the comments about NextGen as it relates to BWI Marshall: this program was an FAA action that changed flight procedures into and out of the Airport. The FAA analyzed that action environmentally in 2013 and determined that the action would not result in any noise increase that exceeds the threshold of significance. To be considered a significant noise impact, the changes would need to result in an increase of 1.5 decibels day night average sound level (known as DNL), or more over a noise sensitive area that is already exposed to noise at or above the 65 DNL exposure level OR that will become exposed to the 65 DNL due to a 1.5 DNL or greater increase when compared to the No Action alternative for the same timeframe. Noise sensitive sites include residential units, schools, places of worship and historic sites. Those NextGen changes have caused a lot of interest and annoyance in the community in areas beyond 65 DNL. <i>[The Proposed Action evaluated in this EA does not result in any noise increases of 1.5 dB over non-compatible land uses (or noise sensitive sites), and therefore the Proposed Action does not result in a significant noise impact.]</i></p> <p>In response to steps taken, MDOT MAA has taken an active role, and continues to do so, to address aircraft noise in the community. MDOT MAA programs include working to recommence the residential sound insulation program for areas within the DNL 65 dB contour (this is the DNL threshold for eligibility put in place by the FAA); working as a technical advisor to the BWI Community Roundtable, which was formed to work with the FAA to consider procedural changes that could be made to address concerns by the surrounding communities in response to the DC Metroplex procedural changes. MDOT MAA also offers permanent and portable noise monitoring, performs regular flight track monitoring, and undertakes comprehensive noise complaint tracking and response. Additionally, separate public outreach has been established by MDOT MAA in response to the DC Metroplex and information is available on MDOT MAA’s community relations website (http://www.maacommunityrelations.com/).</p> | |
| 29 | Paul Verchinski | 6:54 PM | Obstruction Removal | <p>83 Acres of Forest Clearing and 2300 Trees are to be removed. MD has requirements for Forest Conservation replanting where some is required on the original property. The MD Forest Protection Act was revised in 2019. How does the tree removal comply with MD Forest Conservation and Replanting requirements?</p> | <p>See Response to Comment #27.</p> <p>MDOT MAA has undertaken substantial coordination with all necessary agencies, including MDE and MDNR to determine mitigation requirements due to the proposed obstruction removal. Note that there are two types of tree removal being proposed and they are treated differently under the law in terms of mitigation; one is removal of obstructions with federally regulated Part 77 surfaces and does not require mitigation. The second type is removal of trees to</p> | Complete. |

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| | | | | | <p>accommodate new proposed projects on BWI Marshall property, such as the new airline maintenance facility; this tree removal <u>does</u> require mitigation.</p> <p>MDOT MAA will adhere to the Maryland Forest Conservation Act to meet all forest mitigation requirements.. If referring to the local acts (including the Howard County Conservation Act updated in 2019 or forest conservation requirements introduced in Anne Arundel County in 2019), MDOT MAA is not required to meet these local mitigation requirements as BWI Marshall is owned by the State. Additionally, there is no tree removal proposed in Howard County.</p> | |
| 30 | Sen. Pamela Beidle | 6:55 PM | Obstruction Removal | When will the landowners that are affected be contacted? | <p>The affected landowners have been contacted several times since the EA process was initiated. In 2016 MDOT MAA requested access to all private properties potentially impacted by the need to remove obstructions. This initial review was done to identify mature trees. Continued growth was applied to all trees, as is required by the FAA when determining Part 77 obstructions. Through this 2016 review it was determined that some trees would not be expected to grow into obstructions and could be left in place. Unfortunately, access was not granted by all landowners.</p> <p>In 2020, the affected landowners received mailed announcements of the Updated Draft EA, public workshop, and rescheduled virtual public workshop. Prior to any removal or alteration of a tree on private property, and as part of the easement process, all trees identified as obstructions will be surveyed to confirm the need for removal or alteration. After a finding is issued on the EA, MDOT MAA intends on working with individual landowners to mitigate where possible the impact of tree removal (e.g., tree topping, replacement with low growth trees, replanting with grass, etc.). The process to develop easements and ultimately the coordination for tree removal or alteration will require time but MDOT MAA looks forward to working with individual property owners to ensure the safety of both the community and those traveling into and out of BWI Marshall.</p> | No change. |
| 31 | Mike Huddleston | 6:56 PM | Noise | Will the construction result in increased usage of certain runways, causing further noise impact on some communities? | <p>The proposed improvements do not change flight patterns or runway usage of the aircraft. As with many airfield construction projects, construction of the Proposed Action improvements on the airfield may result in temporary runway closures, thus affecting which runways are used during the closure. MDOT MAA makes every effort to ensure that all runways remain open and available and runway closures are minimized, including performing construction work during overnight hours. Individual projects included in the proposed action may require short term temporary closures; these are announced on the MAA Community Relations website which is updated on a weekly basis.</p> | No change. |
| 32 | Joseph Wade | 6:58 PM | Obstruction Removal | Will MAA, or other authority, compensate property owners for the value of removed trees. | <p>The aviation easements are based on fair market value and are recorded on the deed of property in perpetuity. For the properties without existing easements, yes, the property owners would be compensated for an easement. The amount of compensation would be part of the negotiations that take place with MDOT MAA during the process of acquiring the easement. Other parts of this process take into account a property appraisal, tree survey, determination of methodology for tree removal, any change to property value after the removal of</p> | No change. |

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| | | | | | the tree, among other things. There is no payment per tree, or additional value per tree. The payment is for the acquisition of the easement. | |
| 33 | Sen. Pamela Beidle | 7:04 PM | Obstruction Removal | Can the trees be topped instead of removed? | See response to Comment #2. | No change. |
| 34 | Mike Huddleston | 7:04 PM | Noise | And the increase of 1.5 dB is disingenuous. It's spread out over 24 hour period, but individual flight noise could be significantly higher. I know the DNL is the standard used by the FAA, but what will the increase be for a given flight or set of flights. I have measured airplanes the range of 95 dB in my neighborhood. Averages are meaningless. Can you be more specific please? | See response to Comment #15. As referenced, the DNL metric is the only accepted metric for use in evaluation of significant impacts per FAA guidelines. A recent FAA report to Congress re-affirmed the DNL to be the only agency accepted metric (dated April 14 th , 2020). The 1.5 dB increase used as the threshold for "significant impact" is also an average increase. None of the proposed action projects would result in changes to noise levels associated with aircraft arriving to or departing from BWI Marshall. | No change. |
| 35 | Joseph Wade | 7:10 PM | Easements | How do I determine if my property is now subject to the easement? | If there is an existing easement on your land it should be recorded on the deed to the property. However, property owners can reach out to MDOT MAA with their address to determine if there is an easement on their property. Once MDOT MAA starts to reach out to all the affected properties, they will have that information also. | No change. |
| 36 | Mike Huddleston | 7:12 PM | Noise | It's not considered significant because it's spread over 24 hours. Individual flights are much, much higher dB levels. | See responses to Comments #15 and 34. None of the proposed action projects would result in changes to noise levels associated with aircraft arriving to or departing from BWI Marshall. | No change. |
| 37 | Mike Huddleston | 7:16 PM | Noise | It's just any increases above what many are exposed to now will approach unlivable noise levels. Trees removals, increased airport traffic have an adverse effect. | See responses to Comments #15 and 34. None of the proposed action projects would result in changes to noise levels associated with aircraft arriving to or departing from BWI Marshall. | No change. |
| 38 | Lewis Taylor | 7:20 PM | Noise | Is the noise monitoring system working? Panelist mentioned 24 sites. MAA previously reported all but 8 of those were broken. Can you clarify? | MDOT MAA has had a noise monitoring system in place since the 1990s to track aircraft noise in the vicinity of BWI Marshall. The previous system indeed had reached the end of its useful life and replacement parts were often not available. The new system currently has 24 permanent noise monitors at various locations in Anne Arundel and Howard County. The public is able to view the information on an interactive portal (WebTrak) that also provides the opportunity to file noise complaints and view information about MDOT MAA's permanent noise monitors. The public can view the data the noise monitors collect, including the aircraft's type, altitude, origin and destination airports, and flight identification with a 30-minute delay as it updates: https://maacommunityrelations.com/content/anznoiseupdate/flight-tracking.php | No change. |
| 39 | Ed Charik | 7:22 PM | Airport Planning | What happened to plans for a new control tower that was reported back in 2013? | The location identified for the Airport Traffic Control Tower (ATCT) in the 2013 FAA Siting Study was in the main terminal area on the north side of the airfield by Concourses E/F. MDOT MAA is going through an update to the ATCT siting study right now that may locate it more in the central area of the terminal. MDOT MAA is working with the FAA to complete the study. Once the exact location is | No change. |

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| | | | | | identified, an environmental document will have to be conducted for that project. | |
| 40 | Mike Huddleston | 7:23 PM | Noise | 0 and 80 dB averages 40 dB at two function (measured) points. Using the same two points (and realize there are more in a 24 hour period), 0 and 83 dB averages 41.5, or an average increase of 1.5 dB. That compromises the impact of noise increases, to Royce's point about the difficulty using the DNL. | <p><i>[It should be noted that decibels are measured logarithmically and therefore they do not average the same way scalar numbers would. Therefore, the average of 0 and 80 dB would not be 40 dB.</i></p> <p><i>[While it is understood that public perception of noise varies greatly, the EA is required to adhere to FAA's standard of significance for noise impacts (increase of 1.5 dB over non-compatible land uses). Using FAA standards, the EA correctly determined there would be no increase of 1.5 dB over non-compatible land uses.]</i></p> | No change. |
| 41 | Sen. Pamela Beidle | 7:24 PM | Obstruction Removal | Please give me the link to the MDOT MAA site that has the maps for the EA study | A link was provided to Senator Beidle via chat. All of the information was available on the MAA website at http://www.marylandaviation.com/content/environmental/environmentaldocs.html until June 4, 2020. | No change. |
| 42 | Howard Johnson | 7:26 PM | New Maintenance Facility | What will the operation hours of the new maintenance facility be? | <p>The new maintenance facility may operate 24 hours a day with two or three different shifts. Currently, the airlines are conducting maintenance activities at various locations on the terminal apron and at the gates. The limited number of maintenance engine run-ups are conducted on a hold pad near the end of Runway 10. Note that aircraft would not be flown into BWI Marshall Airport for the purposes of maintenance; only aircraft that had previously scheduled flights into and out of BWI Marshall Airport would receive maintenance while at the Airport. With the new maintenance facility, aircraft would be taken to the new dedicated facility space for maintenance and returned to the aircraft gates for their next scheduled flight.</p> <p>Currently there is insufficient space at the gates and within the terminal apron to efficiently perform needed maintenance activities. Employee health, safety and welfare, as well as quality control, are not as effective as they would be if performed in a consolidated well-lit hangar facility. Beyond the need to make maintenance operations more efficient and safer for workers, the apron space currently used for maintenance operations is needed to accommodate irregular operations, and to allow for flexible gate assignments and additional remain overnight parking. The proposed facility is also needed to increase reliability of aircraft fleet maintenance, thereby allowing airlines to maintain flight schedules and minimize delay impacts on passengers.</p> | No change. |
| 43 | Ed Charik | 7:26 PM | Airport Planning | Are there any plans to expand the viewing area at end of 33L? The lot is often full. Also, are there any plans for a better viewing area? | There are no current plans in MDOT MAA's strategic, long term plans. MDOT MAA will take this comment into consideration. | No change. |
| 44 | Howard Johnson | 7:30 PM | Noise | Can Royce provide an hourly break down of the expected DB levels in the run up and maintenance area. Would like to see the modeling that resulted in a 1.5 DB level increase | The hourly break down is not available because the actual distribution of what maintenance runup operations will be is unknown, however the MDOT MAA has been very conservative in modeling future potential run-up operations (e.g., modeled more operations than are likely). In the No Action Alternative, the expected number of run-up operations are 4.4 per year. For the Proposed Action | No change. |

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| | | | | | Alternative, 6.9 and 7.6 operations were forecast per day in 2022 and 2027, respectively. <i>[As indicted in the 2022 and 2027 Proposed Action contours, the proposed run-up operations at the Airline Maintenance Facility are only expected to increase the noise near the proposed facility and entirely within compatible land uses.</i> <i>FAA Order 1050.1F identifies a significant impact when “The action would increase noise by DNL 1.5 dB or more for a <u>noise sensitive area</u> that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe.” An increase in noise levels of DNL 1.5 dB is not significant if it occurs over compatible land uses.]</i> | |
| 45 | Brian Hammond | 7:30 PM | Airport Planning | Are you still looking at a hotel connected to the hotel? and where would a new tower go? near midfield?...revised to say hotel connected to airport? | The hotel is not part of this Updated Draft EA. For informational purposes, yes, the MDOT MAA desires to have an on-airport hotel in the main terminal area, near where a new ATCT may be located. | No change. |
| 46 | Barbara Scanlon | 7:36 PM | Noise | MAA has been more respectful of noise effects on the population than the FAA has been in the last few years. Can they trump what the MAA has already accomplished? | Much has to do with what each of the agencies control. MDOT MAA owns and operates BWI Marshall and has a great deal of control over the terminal and other landside facilities. The FAA controls the airspace around the Airport and every airport, as well as the movement of aircraft along taxiways and runways. <i>[Airlines and aircraft operators control the frequency of operations, the time of operations and fleet mix that they use.]</i> It is within the realm of possibility, though speculative, that future flight procedure changes implemented by the FAA could change or lessen the effects of the procedure proposals currently under consideration by FAA. | No change. |
| 47 | Lewis Taylor | 7:37 PM | Operations | Will increased maintenance efficiency result in increased flight operations? | No, it will not result in increased flight operations. Aircraft would not be flown into BWI Marshall Airport for the purposes of maintenance; only aircraft that had previously scheduled flights into and out of BWI Marshall Airport would receive maintenance while at the Airport. Whereas currently maintenance is conducted on various parts of the Airport, with the new maintenance facility, aircraft would be taken to the new dedicated facility space for maintenance and then returned to the aircraft gates for their next scheduled flight. The benefits of the new location are discussed in the response to Comment #42. | No change. |
| 48 | Paul Verchinski | 7:37 PM (time when copied & pasted) | Document Review | I reviewed the hard copy to some extent at the Howard County Library. It had about 400 pages and 2 CDs to review. I was not able to go back and complete my review due to Covid19. I have attempted to continue my review on line but have found this to be impossible. I therefore lodge this protest that does not allow the public to be able to constructively review this draft EA. It is only available on line and I have a visual disability. I did request by Email to Kim Hughes "hard copies of the meeting materials as well as the documents currently posted on the website.", but did not receive this. | All of the materials, including graphics with specific tree removal and the Updated Draft EA document with detailed narrative about the project and potential impacts and mitigation were available on the MDOT MAA Environmental website from February 6 to June 4, 2020 at http://www.marylandaviation.com/content/environmental/environmentaldocs.html . Hard copies of the document were available at library locations, MDOT MAA offices and FAA offices from February 6th until mid-March, when libraries closed due to COVID-19. Due to the pandemic and the need to postpone the public workshop (scheduled for March 11th, 2020), the comment period was extended to June 4th, 2020. The document remained on the MDOT MAA's website beyond June 4th, 2020 when the comment period closed. Notice of the virtual public | No change. |

Final Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport
 Virtual Public Workshop Comments on Updated Draft EA– May 21, 2020

| # | Commenter | Time | Topic | Comment | Response | Status |
|----|-----------------|---------|---------------------|---|---|------------|
| | | | | | workshop was published April 23rd, 2020, 30 days prior to holding the virtual public workshops to provide ample notice of the events. The virtual public workshop materials were on the MDOT MAA website from May 15th through June 4th, 2020. The MDOT MAA offices remained open and the document was available in hardcopy for review, as explained via email in response to the commenter on May 24th, 2020. The original email request for all materials in hard copies was not received by MDOT MAA. A telephone number was also provided to request assistance via the Notice of Availability. MDOT MAA communicated with the commenter to provide opportunities to come into MDOT MAA offices to review the hardcopy document. | |
| 49 | Mike Huddleston | 7:59 PM | General | No need for a response to the following. I've lived here since 2002. The NextGen changes have made it unbearable at times. Any potential changes, are a sensitive subject to a lot of folks residing near the airport. Home values in many areas immediately surrounding the airport have plummeted 15 - 20% since Next Gen. My house value is reduced by over \$100k due to the now current levels of air traffic noise. So, averages spread out over 24 hour periods are pretty meaningless, although realizing it's the standard implemented by the FAA - for the benefit of the FAA, not the surrounding communities. Not your fault, just reality. The changes you all are proposing seem to be the least of our actual concerns. Thanks for hosting and answering the posed questions. Be safe and stay well. | Comment noted. | No change. |
| 50 | Dan Skacan | 8:23 PM | Obstruction Removal | By the look of the updated map, fewer trees will be taken and hopefully if I'm reading this correctly, the "specimen" trees will be staying. | Yes, preliminarily, fewer trees will be removed in the residential areas as a result of the 2016 surveys conducted on private property that identified trees which could remain. It cannot be confirmed at this time if specimen trees can remain. See comment #2 for the process that will be followed to finalize tree removal or alterations. | No change. |

Attachment 6:

Updated Draft EA Virtual Public Workshop “Chat” Transcript

May 21, 2020

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VIRTUAL PUBLIC WORKSHOP CHAT QUESTIONS AND COMMENTS

MAY 21, 2020

11:30 AM – 1:30 PM

May 21, 2020 12:29 PM from lewis taylor to all panelists: Why was Anne Arundel County consulted but not Howard County?

May 21, 2020 12:31 PM from Joel Connor to all panelists: how are the trees being removed? or are they being trimmed?

May 21, 2020 12:32 PM from lewis taylor to all panelists: The 65 DNL noise contour goes into Howard County. Was Howard County consulted in the 2018 Draft EA you are relying on?

May 21, 2020 12:32 PM from Joel Connor to all panelists: Are the stumps being grinded down and ground being graded to contour to existing ground level

May 21, 2020 12:34 PM from Joel Connor to all panelists: we have an agreement to replace the trees if removed, do we have that option? are there other options if we don't want or need another tree

May 21, 2020 12:36 PM from lewis taylor to all panelists: MAA has challenged flight path changes in federal court. If those changes are reversed, wouldn't the Proposed Action alternatives cause significant impacts?

May 21, 2020 12:37 PM from Dan Woomer (privately): With the new maintenance facility, and the increasing number of aircraft maintained, is there consideration of, or does the current planning include a sound deflection structure to reduce the engine run-up noise disturbing the local communities?

May 21, 2020 12:40 PM from lewis taylor to all panelists: Why is there no mention of the controversy regarding flight path changes and the resulting noise impacts.

May 21, 2020 12:40 PM from Dan Woomer (privately): Ryan - Please feel free to read my question openly to the panelists.

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May 21, 2020 12:41 PM from lewis taylor to all panelists: I am not asking about future new changes. I am asking about the changes MAA told a federal court are unlawful and which you are relying on for existing conditions. Why was that not addressed?

May 21, 2020 12:41 PM from Ryan Lombardi to all panelists: from Dan Woomer (privately):
With the new maintenance facility, and the increasing number of aircraft maintained, is there consideration of, or does the current planning include a sound deflection structure to reduce the engine run-up noise disturbing the local communities?

May 21, 2020 12:45 PM from Joel Connor to all panelists: when will the tree removal start on "off airport property"?

May 21, 2020 12:50 PM from John Morenz to all panelists: What height will the off airport trees be cut too?

May 21, 2020 12:51 PM from Joel Connor to all panelists: Thank you for your answers, have they determined the noise level for the residences after the tree removal?

May 21, 2020 12:52 PM from lewis taylor to all panelists: you skipped my question, why was there no mention of controversy?

May 21, 2020 12:52 PM from lewis taylor to all panelists: is controversy not part of existing conditions?

May 21, 2020 12:52 PM from Caroline Pinegar to all panelists: from dan woomer

May 21, 2020 12:52 PM from Caroline Pinegar to all panelists: it says Current run-up noise level, especially early in the morning, is already having a disturbing impact on the neighboring communities. With more aircraft coming, the number of noise impact events will only increase. And, the answer we just received was "It shouldn't be a problem?" It already is a problem. Why not sound barriers?

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May 21, 2020 12:54 PM from Joel Connor to all panelists: Are they clear cutting the area owned by the airport north of the airport off of Main and White Ave

May 21, 2020 12:56 PM from lewis taylor (privately): Panel said Proposed action does not make flight path changes but does it cause noise changes? Did you study cumulative impacts of noise related to the flight path changes MAA challenged in court?

May 21, 2020 12:58 PM from John Morenz to all panelists: Will Andover gardens be clear cur? Airports property...

May 21, 2020 1:01 PM from lewis taylor to all panelists: repeat -

May 21, 2020 1:01 PM from lewis taylor to all panelists: Panel said Proposed action does not make flight path changes but does it cause noise changes? Did you study cumulative impacts of noise related to the flight path changes MAA challenged in court?

May 21, 2020 1:03 PM from lewis taylor to all panelists: Thanks for you answers. I am asking this one for the third time. Why is there no mention of the controversy regarding flight path changes and the resulting noise impacts?

May 21, 2020 1:04 PM from Joel Connor to all panelists: So this has nothing to due with the new GPS system, what is the reasoning behind the tree trimming since the radar is not used anymore

May 21, 2020 1:07 PM from lewis taylor to all panelists: thank you

May 21, 2020 1:07 PM from Joel Connor to all panelists: Thank you for all of your efforts and responses

May 21, 2020 1:09 PM from lewis taylor to all panelists: You mentioned the proposed action is due to FAA ALP standards. Is BWI currently in violation of the law?

**Final Environmental Assessment and Section 4(f) Determination
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May 21, 2020 1:12 PM from lewis taylor to all panelists: Will the needs review be updated because of anticipated decreased use of the airport in the wake of the pandemic?

May 21, 2020 1:15 PM from lewis taylor to all panelists: is any of the answer given about decreased use in the Draft EA?

May 21, 2020 1:22 PM from Joel Connor to all panelists: can we see the slide with the tree removal please

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VIRTUAL PUBLIC WORKSHOP CHAT QUESTIONS AND COMMENTS

MAY 21, 2020

6:00 PM – 8:30 PM

May 21, 2020 6:42 PM from Cisneros (privately): I misunderstood your advertising for this meeting and thought you would discuss environmental impact of operations at bwi On local residents- pursuant to recent legislation granting umd approval to study this- are any of your ea related to that in any way? Second question- do any of your ea studies consider impact on residents? Tia.

May 21, 2020 6:50 PM from Dan Woomer to all panelists: The current planning includes the removal of over 2,000 trees in and around the Linthicum community. And, you stated there should be no significant increase in the noise pollution in our community. With the removal of a significant amount of existing sound buffering trees, coupled with the planned increase in aircraft arriving, departing and being maintained at BWI, including an increasing number of engine test run-up which is already disruptive to our community, please explain how the noise pollution in our community will not intensify? And, with the removal of all of these trees and the clear cutting of 83 acres, how will the increase in rain/storm water runoff be mitigated, given the significant increase already experienced from all the land development all along West Nursery Road? Do the current plans include reforestation? If so, where in Linthicum will trees be replanted?

May 21, 2020 6:51 PM from Senator Pamela Beidle to all panelists: I am confused by the the 83 acres of trees. How many trees will be removed from private property? Where can I see a better map?

May 21, 2020 6:53 PM from Mike Huddleston to all panelists: Other than the proposed increase of 1.5 dBs in the DNL value, I've heard concerns about the environment, improvements to the airport needed to improve passenger experience. What about the impacts, if any, from these improvements on the surrounding communities? Next Gen increased dB levels significantly for many surrounding communities. These 1.5 dB increases will be above and beyond Next Gen increases. What steps are being taken to mitigate the impact of the increased noise?

May 21, 2020 6:54 PM from Paul Verchinski to all panelists: 83 Acres of Forest Clearing and 2300 Trees are to be removed. MD has requirements for Forest Conservation replanting where some is required on the original property. The MD Forest Protection Act was revised in 2019. How does the tree removal comply with MD Forest Conservation and Replanting requirements?

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May 21, 2020 6:55 PM from Senator Pamela Beidle to all panelists: when will the landowners that are affected be contacted?

May 21, 2020 6:56 PM from Mike Huddleston to all panelists: Will the construction result in increased usage of certain runways, causing further noise impact on some communitiites?

May 21, 2020 6:58 PM from Joseph Wade to all panelists: Will MAA, or other authority, compensate property owners for the value of removed trees.

May 21, 2020 7:04 PM from Senator Pamela Beidle to all panelists: can the trees be topped instead of removed?

May 21, 2020 7:04 PM from Mike Huddleston to all panelists: and the increase of 1.5 dB is disingenuous. It's spread out over 24 hour period, but individual flight noise could be significantly higher. I know the DNL is the standard used by the FAA, but what will the increase be for a given flight or set of flights. I have measured airplanes the range of 95 dB in my neighborhood. Averages are meaningless. Can you be more specific please?

May 21, 2020 7:10 PM from Joseph Wade to all panelists: How do I determine if my property is now subject to the easement?

May 21, 2020 7:12 PM from Mike Huddleston to all panelists: it's not considered significant because it's spread over 24 hours. Individual flights are much, much higher dB levels.

May 21, 2020 7:14 PM from Mike Huddleston to all panelists: Not trying to be argumentative. I appreciate the responses.

May 21, 2020 7:16 PM from Mike Huddleston to all panelists: it's just any increases above what many are exposed to now will approach unlivable noise levels. trees removals, increased airport traffic have an adverse effect.

May 21, 2020 7:19 PM from Mike Huddleston to all panelists: Explaining the DNL was helpful, thanks.

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May 21, 2020 7:20 PM from lewis taylor to all panelists: Is the noise monitoring system working? Panelist mentioned 24 sites. MAA previously reported all but 8 of those were broken. Can you clarify?

May 21, 2020 7:22 PM from Ed Charik to all panelists: What happened to plans for a new control tower that was reported back in 2013?

May 21, 2020 7:23 PM from Mike Huddleston to all panelists: 0 and 80 dB averages 40 dB at two function (leasured) points. Using the same two points (and realize there are more in a 24 hour period), 0 and 83 dB averages 41.5, or an average increase of 1.5 dB. That compromises the impact of noise increases, to Royce's point about the difficulty using the DNL.

May 21, 2020 7:24 PM from Senator Pamela Beidle to all panelists: please give me the link to the MDOT MAA site that has the maps for the EAS study

May 21, 2020 7:26 PM from Howawrd Johnson to all panelists: What will the operation hours of the new maintiance facility be?

May 21, 2020 7:26 PM from Ed Charik to all panelists: Are there any plans to expand the viewing area at end of 33L? The lot is often full. Also, are there any plans for a better viewing area?

May 21, 2020 7:30 PM from Howawrd Johnson to all panelists: Can Royce provide an hourly break down of the expected DB levels in the run up and maintainance area.. Would like to see the modeling that resulted in a 1.5 DB level increase

May 21, 2020 7:30 PM from Brian Hammond to all panelists: Are you still looking at a hotel connected to the hotel? and where would a new tower go? near midfield?

May 21, 2020 7:30 PM from Brian Hammond to all panelists: whoops, hotel connected to airport

May 21, 2020 7:30 PM from Senator Pamela Beidle to all panelists: Thank you

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May 21, 2020 7:33 PM from Mike Huddleston to all panelists: ^^ You all have been helpful in responding above, there are no more questions embedded within the above comments.

May 21, 2020 7:36 PM from Barbara Scanlon to all panelists: MAA has been more respectful of noise effects on the population than the FAA has been in the last few years. Can they trump what the MAA has already accomplished?

May 21, 2020 7:37 PM from lewis taylor to all panelists: will increased maintenance efficiency result in increased flight operations?

May 21, 2020 7:37 PM from Robin Bowie to all panelists: Here's one of them....I reviewed the hard copy to some extent at the Howard County Library. It had about 400 pages and 2 CDs to review. I was not able to go back and complete my review due to Covid19. I have attempted to continue my review on lline but have found this to be impossible. I therefore lodge this protest that does not allow the public to be able to constructively review this draft EA. It is only available on line and I have a visual disability.. I did request by Email to Kim Hughes 'hard copies of the meeting materials as well as the documents currently posted on the websote.", but did not receive this

May 21, 2020 7:51 PM from Paul Harrell to all panelists: Thank you. Good night.

May 21, 2020 7:52 PM from Joseph Wade to all panelists: Thank you for answering my questions. I am signing off.

May 21, 2020 7:54 PM from Dan Woomer to all panelists: Thanks to all for the presentation and answers.

May 21, 2020 7:55 PM from Howawrd Johnson to all panelists: Graet Job as always group Maps and charts are clear and helpful . Thanks hosting multiple meetings

May 21, 2020 7:56 PM from Joy Hamilton to all panelists: Thanks for the opportunity to observe this one! Have a good evening.

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May 21, 2020 7:59 PM from Mike Huddleston to all panelists: No need for a response to the following. I've lived here since 2002. The NextGen changes have made it unbearable at times. Any potential changes, are a sensitive subject to a lot of folks residing near the airport. Home values in many areas immediately surrounding the airport have plummeted 15 - 20% since Next Gen. My house value is reduced by over \$100k due to the now current levels of air traffic noise. So, averages spread out over 24 hour periods are pretty meaningless, although realizing it's the standard implemented by the FAA - for the benefit of the FAA, not the surrounding communities. Not your fault, just reality. The changes you all are proposing seem to be the least of our actual concerns. Thanks for hosting and answering the posed questions. Be safe and stay well.

May 21, 2020 8:07 PM from Barbara Scanlon to all panelists: Thanks for clarifying so well!

May 21, 2020 8:23 PM from Robin Bowie to all panelists: A follow up from Don Skacan (privately):

By the look of the updated map, fewer trees will be taken and hopefully if I'm reading this correctly, the "specimen" trees will be staying.