

## SCMAGLEV DEIS COMMENTS FROM THE DISTRICT OF COLUMBIA'S

### DEPARTMENT OF ENERGY & ENVIRONMENT (DOEE)

(based on e-mail request from Pat Jackman to Gretchen Mikeska of DOEE)

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

From: Mikeska, Gretchen (DOEE) <gretchen.mikeska@dc.gov>

To: Pat & Stephen <jjshare@verizon.net>

Cc: Patil, Apurva (DOEE) <apurva.patil@dc.gov>

Sent: Wed, Jul 14, 2021 12:17 pm

Subject: RE: Requesting DC's comments on the SCMaglev DEIS; update on opposition

Hi Pat – here are DOEE's comments on the SCMaglev DEIS. They were submitted by the comment deadline. Gretchen

1. At present, DOEE, UST Branch are requesting that a consolidated address-list (or proposed locations) of all planned support structures be provided for review. DOEE can then use the list to research tank and remediation site locations in the areas of interest. The locations are discussed, but are scattered throughout the 600 pages of the report.

DOEE, UST Branch, suggests that the maglev project consultants can use the EPA UST Finder, a GIS tool:

[UST Finder \(arcgis.com\)](https://arcgis.com) to help locate all underground storage tanks throughout Maryland and DC, along the planned maglev routes, and other alternative routes.

Once the support structures are located on the map, a specific UST address list can be prepared and sent to DOEE for FOIA search. The DOEE link for FOIA request is at [Open Government and FOIA - DOEE | ddoe \(dc.gov\)](https://open.dc.gov/open/foia). This web page mentions that frequently requested public records are available via FOIA request and include (but are not limited to): Underground Storage Tank/Leaking Underground Storage Tank (UST/LUST) listings; The FOIA officer is the DOEE point of contact for advice and policy guidance on matters pertaining to the administration of the FOIA.

The DOEE, FOIA Officer contact information is listed as:

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2. The District of Columbia's Brownfield Revitalization Act, D.C. Code § 8-631.01 et seq., gives DOEE authority to respond to releases of hazardous substances at sites in the District. Pursuant to that authority, DOEE has also performed a survey of contaminated sites in the District. A list of brownfield sites can be requested via email [apurva.patil@dc.gov](mailto:apurva.patil@dc.gov). MAGLEV work performed at contaminated sites may disturb contaminated soil that can exacerbate existing environmental conditions—posing threats to workers, and potentially the greater public and environment. These risks should be considered in the MAGLEV environmental impact analysis. In the event that the MAGLEV route goes through a suspect or confirmed contaminated site, DOEE recommends

proper sampling, analysis, and other standard protocols be performed or followed to eliminate or minimize the impact related to disturbing contaminated soils.

3. DOEE provides the following detailed comments on DAR which pertain to the overall project and in framing impact analyses that will be undertaken as part of DEIS development. Note that the following comments are applicable to the District portion of the project as well as District-owned property located in Maryland.

a) The MD 198 Rolling Stock Depot (RSD) option is located on federal property with wetlands and streams that are regulated by the District. The current mapping in the DAR depicts wetland polygons from the National Wetland Inventory (NWI). It is likely that the wetlands are larger in size than the approximations provided in NWI maps. A wetland and stream delineation in accordance with the US Army Corps of Engineers manual and regional supplements should be performed to determine the actual extent of wetland and stream boundaries within the MD 198 RSD option and to accurately assess proposed impacts.

b) Under the District's Water Pollution Control Act, D.C. Official Code §§ 8-103.01 *et seq.*, the discharge of pollutants (i.e., fill, dredge) to the waters of the District (e.g., wetlands and streams) is prohibited. In accordance with the District's Critical Areas - Wetlands and Streams Regulations 21 DCMR Chapters 25 and 26, regulated activities (i.e., any physical, chemical, or biological impacts to wetlands and streams) that impact District waters require either a Clean Water Act Section 404/401 permit and water quality certification or District wetland and stream permit. It is the District's policy to ensure no net loss and no net gain of wetlands and/or streams and their functions. The District requires a certification/permit applicant to ensure impacts to District waters are avoided or minimized to the greatest extent practicable, in accordance with 21 DCMR Chapters 25 and 26. A discharge of pollutants to District waters or regulated activity within District waters will not be permitted if there is a practical alternative to the project layout or location that would have less adverse impacts on the District's waters. An area not presently owned by the applicant which could be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the project may be considered an alternative. If the applicant demonstrates to DOEE's satisfaction that impacts to District waters are unavoidable and necessary, DOEE will require the applicant to provide compensatory mitigation in accordance with 21 DCMR §§ 2607, 2608, 2609, 2610, and 2611. Compensatory mitigation projects for impacts to District waters must be located within the District or District-regulated land.

4. Any installation of fuel-burning equipment (such as boilers) with heat input ratings greater than 5 MMBTU/hour, stationary generators (any size), or other stationary air pollutant emitting equipment will need to go through a separate air quality permitting process prior to their construction being initiated. The applicant must obtain a permit before construction, installation, or operation of any generator and/or any other pollutant-emitting equipment subject to air quality permitting regulations begins. The applicant may contact AQD at (202) 535-1747 with any questions about this permitting process.

If any crushing or screening is to occur at the site, such as needed to crush concrete being removed from the site, an air quality permit must be obtained for such operations. 20 DCMR § 800, Control of Asbestos, must be followed during razing, demolition, or renovation of any existing structures at the site. The applicant may contact AQD at (202) 535-2998 with questions about asbestos abatement permitting or raze requirements as they relate to asbestos.

If any soil vapor extraction or groundwater remediation is required at the site, the applicant must comply with the requirements of 20 DCMR § 717, Soil and Groundwater Remediation. Fugitive dust must be controlled by methods ensuring compliance with 20 DCMR § 605, Control of Fugitive Dust.

Odors and other nuisance pollutants must be controlled to ensure compliance with 20 DCMR § 903.

Engine idling for both on-road vehicles (gasoline or diesel) and nonroad diesel vehicles and engines must be limited so as to comply with 20 DCMR § 900.

5. The project should include an examination of possible impacts to the District's groundwater resources on land and where the tunnel crosses under the Anacostia River.
6. The project should be consistent with the District's sustainability plans. Please note that, the plan may be updated over time and new plans may also be adopted that could affect areas of potential impact for the SCMAGLEV Project.
7. Based on Sheets 1 and 2 of the Natural Resources Map Atlas, the project will not impact any 100-year or 500-year floodplains within the District's geographic boundaries and regulatory jurisdiction. Based on Attachment D from the Draft EIS and Sheet 8 of the Draft Map Atlas, Build Alternatives J-01, J1-01, J-04, and J1-04 would impact 100-year floodplains within a floodway at the Maryland Environmental Trust easement area, which includes lands granted to District ownership. These floodplains are regulated by Anne Arundel County, MD and are not subject to the District's floodplain management regulations.

The maximum extent of permanent impact would be 39 acres (for alternatives J1-01 and J1-04) or 31 acres (J-01 and J-04) for the site as a whole. A precise figure was not provided for impacts to the easement specifically. The piers for the elevated track, which may require regrading, may impact the flow of water in the floodway. If so, a No-Rise Certification demonstrating that the changes would not cause any increase to the 100-year floodplain elevation would be required. For any SCMAGLEV-related development on District-owned land, the District to the maximum extent practicable will require compliance with all applicable local, state, and federal floodplain development regulations as a condition of any lease agreements.

8. This project will trigger the following requirements from the 2013 Stormwater Rule:
  - a. Section 520, Major Land Disturbing Activities – the size and scale of the project will disturb land area greater than 5,000 square feet. The project must calculate the Stormwater Retention Volume (SWRv) using the equation from section 520.3, and must include the total area of disturbance (including any temporary areas of disturbance). This SWRv can be captured onsite and retained using the Best Management Practices (BMPs) listed in the 2013 SW Guidebook.
  - b. Section 540 - All land disturbing areas must plan and install erosion and sediment control practices. Approved practices and guidance can be found in the 2017 ESC Manual.
  - c. Section 545. 5 - In an area along a waterbody, a buffer must be established:

- a. By not disturbing the land immediately adjacent to the waterbody, except to restore native vegetation;
  - b. Of at least twenty-five feet (25 ft) on both sides of the waterbody, measured perpendicular to and horizontally from the top of bank; and
  - c. With vegetation or other measure required by the Department to ensure that the buffer acts as a filter to trap sediment and keep it onsite.
9. The Baltimore-Washington SCMAGLEV Project includes aboveground viaducts (both options J and J1) and a proposed MD198 Train Maintenance Facility (TMF) that will permanently disturb land at the Forest Haven/ Oak Hill/New Beginnings site, which is District-administered land in Maryland City, Anne Arundel County, MD. The proposed route alternatives and TMF would traverse, impact, or destroy critical wildlife habitats on this property. The project would impact habitats for several of the District's Species of Greatest Conservation Need (SGCN) as listed in the District's State Wildlife Action Plan. Additionally, the SCMAGLEV plan would impact habitat for the federally threatened Northern Long-eared Bat as well as bird species subject to federal protections under the Migratory Bird Treaty Act and migratory fish species subject to the Anadromous Fish Conservation Act.

The elevated viaduct adjacent to the Baltimore-Washington (B-W) Parkway would traverse land at Forest Haven between Rt. 198 and Rt 32. The greatest impacts of the viaduct would be caused by Option J on the east side of the Parkway. The viaduct would destroy prime beaver pond habitat on the east side of the B-W Parkway. Beavers are an SGCN in the District. Construction of the viaduct may also change the hydrology of the area which would impact vernal pool habitats adjacent to the Little Patuxent River and mature forested riparian habitat on both sides of the parkway. The footprint of the viaduct published in the DEIS indicates that the viaduct would impinge directly on the pond, but no provisions are listed for mitigating those impacts. The TMF site would permanently impact approximately 120 acres of upland forest and approximately 20 acres of emergent freshwater wetland or forested wetland. Both the mature riparian forests and the upland forest habitats are likely habitat for the federally threatened northern long-eared bat (NLB), which is subject to the Endangered Species Act 4(d) rule. The 4(d) rule provides protections to NLB populations at specific times of the year. The following SGCN have been or are likely to be found in the project area. Permanent impacts to these species and their habitats may be subject to conservation measures. The Maryland Department of Natural Resources may have records of SGCN in Maryland and also state-listed endangered or threatened species in this area. A list of the SGCN found in the project area is attached to these comments.

The DEIS claims that the published maps indicate the full extent of the as-built footprint. The maps also indicate that the MD189 TMF would impinge on the Little Patuxent River and that a portion of the river would have been engineered and routed around the TMF. The footprint of that and the impacts of reengineering the river around the TMF are not described in the DEIS. This would impact additional wetlands and riparian forests. Those impacts are not described and accounted for in the DEIS. The TMF would impact approximately 120 acres of upland forest and 20 acres of emergent freshwater wetland. The upland forest is likely habitat for the federally threatened northern long-eared bat, which is subject to the Endangered Species Act 4(d) rule, which provides protections to populations affected by white-nose syndrome during specific life stages of the species.

**SGCN at Forest Haven/ Oak Hill/New Beginnings** (\*indicates an element occurrence for this species at this site). Permanent impacts to these species and their habitats may be subject to conservation measures under Code of the District of Columbia §8-2221.28. (Council's authority with respect to wild animals, fishing licenses, and migratory birds.):

**Birds**

Wood duck\*  
Veery\*  
Brown creeper\*  
Chimney swift\*  
Yellow-billed cuckoo\*  
Rusty blackbird\*  
Bald eagle\*  
American kestrel\*  
Tree swallow\*  
Eastern towhee\*  
Louisiana waterthrush\*  
Wood thrush\*  
Baltimore oriole  
Red-headed woodpecker  
American woodcock  
Ovenbird\*  
Black-throated blue warbler  
Black-throated green warbler  
Black-and-white warbler  
Chestnut-sided warbler  
Prothonotary warbler

**Amphibians**

Spring Peeper\*  
Upland Chorus frog  
Fowler's Toad\*  
American Toad\*  
Wood frog  
Gray treefrog\*  
Cope's gray treefrog\*  
Green treefrog  
Pickerel frog\*  
Leopard frog\*  
Marbled salamander\*  
Spotted salamander\*  
Red back salamander\*  
Dusky salamander  
Spring salamander  
Red salamander

**Reptiles**

Box Turtle\*  
Spotted Turtle  
Wood Turtle  
Painted Turtle \*  
Redbelly Turtle  
Bog turtle  
Northern brown snake \*  
Garter snake\*

Worm snake\*  
Ringneck snake  
Rough greensnake  
Queensnake  
Northern copperhead  
Five-lined skink\*

### **Mammals**

River Otter  
Virginia opossum\*  
Southern Flying squirrel\*  
Meadow vole  
Short-tailed shrew  
Beaver\*  
Grey fox  
Northern long-eared bat  
Eastern red bat\*  
Silver-haired bat  
Tricolored bat  
Big brown bat\*  
Hoary bat  
Evening bat  
Eastern small-footed bat  
Little brown bat  
American mink  
Eastern cottontail\*

### **Dragonflies and Damselflies**

Comet darner  
Mocha emerald  
Great spreadwing  
Emerald spreadwing  
Sedge sprite  
Sphagnum sprite  
Dragonhunter  
Sweetflag spreadwing

### **Butterflies**

Baltimore checkerspot  
Bronze copper  
Dion skipper  
Crossline skipper  
Great spangled fritillary

### **Crayfish**

Devil crawfish  
Upland burrowing crayfish  
Acuminate crayfish

**Gretchen Mikeska, P.E.**

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## **Statement from Director Andrew Trueblood on the Baltimore-Washington Super Conducting Maglev Project DEIS**

[planning.dc.gov/release/statement-director-andrew-trueblood-baltimore-washington-super-conducting-maglev-project](http://planning.dc.gov/release/statement-director-andrew-trueblood-baltimore-washington-super-conducting-maglev-project)

Attachments to the statement:

**January 25, 2021:** Statement from the Director, District of Columbia Office of Planning:

[planning.dc.gov/sites/default/files/dc/sites/op/release\\_content/attachments/Statement%20from%20the%20Director%20-%20BWSCMAGLEV%20DEIS\\_0.pdf](http://planning.dc.gov/sites/default/files/dc/sites/op/release_content/attachments/Statement%20from%20the%20Director%20-%20BWSCMAGLEV%20DEIS_0.pdf)

## **October 1, 2018: District of Columbia Office of Planning**

RE: Non-Concurrence with the Baltimore-Washington Superconducting Magnetic Levitation Train System Project Draft Alternatives Report dated August 31, 2018

[planning.dc.gov/sites/default/files/dc/sites/op/release\\_content/attachments/OP\\_October%202018%20Baltimore%20Washington%20SCMAGLEV%20PDAR%20Non-Concurrence%20Letter.pdf](http://planning.dc.gov/sites/default/files/dc/sites/op/release_content/attachments/OP_October%202018%20Baltimore%20Washington%20SCMAGLEV%20PDAR%20Non-Concurrence%20Letter.pdf)