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July 1, 2026

Sent by e-mail: [icesustainability@ice.dhs.gov](mailto:icesustainability@ice.dhs.gov)

Department of Homeland Security  
Immigration and Customs Enforcement  
500 12th Street, S.W.  
Washington, D.C. 20536

Re: Early Notice and Public Review of a Warehouse Renovation by Immigration and  
Customs Enforcement in Hagerstown, MD

To Whom It May Concern,

As the Attorney General of Maryland, I write to express my concerns with the above-referenced Scoping Notice and ICE's plans to convert a vacant warehouse in Washington County, Maryland into a major immigration detention facility.

ICE purchased the warehouse on January 16 for \$102 million with the express purpose of converting it into an immigration detention facility. This was one of the first purchases that ICE made to execute on its new policy of expanding detention capacity through warehouse conversions, also known as the Detention Reengineering Initiative. To date, ICE has purchased 11 warehouses for these purposes.

Not two months later, on March 6, 2026, the agency awarded a \$113 million contract to "retrofit and provide wraparound operational services" at the site with a contract completion deadline of May 6, 2026. The State sued, and the Court ordered ICE to pause its breakneck efforts, finding that the agency had committed a "crystal-clear" violation of the National Environmental Policy Act (NEPA) and that allowing the project to proceed would result in irreparable harm to the environment. Memorandum Opinion at 1, *State of Maryland v. Mullin*, 26-cv-733 (D. Md. April 17, 2026), ECF 43.

That history is important, and the Scoping Notice to which these comments respond must be viewed in its context. As noted throughout the litigation over this undertaking, and by the comments of the heads of Maryland's Department of Natural Resources, Department of the Environment, Department of Transportation, and Department of Health filed in response to the present Scoping Notice, converting the warehouse into an immigration detention facility, and operating it as such, will significantly impact surrounding communities and the local environment. In such circumstances, NEPA requires an agency to prepare an environmental impact statement rather than a more cursory environmental assessment, yet the Scoping Notice explicitly declares that ICE will prepare only an environmental assessment.

I am also concerned that ICE has failed to provide sufficient information to allow the public to meaningfully comment on its proposed activities and that the Scoping Notice itself indicates that ICE may allow its previous commitment of resources to convert the warehouse to bias the forthcoming environmental review. Each of these issues is discussed in more detail below.

Moreover, since the start of June, numerous reports have indicated that ICE has abandoned plans to convert at least 7 of the 11 warehouses that it previously purchased into detention facilities. ICE, however, seems intent on pushing forward with its plan to convert the Washington County warehouse. The plain and simple truth is that this shell of a building is unsuitable for such purposes, and the extensive work envisioned to transform it into such a facility would have a significant impact on the surrounding environment and local communities. As such, I urge ICE to consider alternative uses for the property, including its sale.

I. The project threatens significant environmental impacts and an EIS is necessary.

The Scoping Notice explicitly states that ICE "intends to prepare an environmental assessment (EA) to consider the potential environmental impacts associated with the renovation of [the warehouse]." Scoping Notice at 1. But an environmental assessment is insufficient where, as here, a project is likely to have a significant impact on the environment and surrounding communities. *See* 42 U.S.C. §§ 4332(C); 4336(b)(1). ICE must therefore prepare an environmental impact statement instead.

DHS's NEPA Instruction Manual states that "an evaluation of significance requires consideration of both context and intensity." Dep't of Homeland Sec., *Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act (NEPA)* (Nov. 6, 2014) at II-6, [https://www.fema.gov/sites/default/files/2020-07/fema\\_dhs\\_instruction-manual\\_023-01-001-01.pdf](https://www.fema.gov/sites/default/files/2020-07/fema_dhs_instruction-manual_023-01-001-01.pdf) ("DHS Instruction Manual"). Both the context of the proposed action and the intensity of its foreseeable impacts indicate that those impacts will be significant and that an environmental impact statement is needed.

In comments from the heads of the Maryland Department of the Environment, Department of Natural Resources, Department of Transportation, and Department of Health (“State Agencies Letter”) responding to the Scoping Notice, the State has identified a number of important ecological resources in the vicinity of the warehouse. This includes three state waterways (Semple Run, Conococheague Creek, and the Potomac River), two ecologically significant areas (Kemps-Springs and Conococheague-Kemps Mill), and at least seven species considered by the State as rare or otherwise needing additional regulatory protection due to their imperiled status. *See* State Agencies Letter at 2-8. These ecological features provide important context for evaluating the project’s likely impacts

The proposed action is likely to impact these natural resources because the warehouse’s existing infrastructure is insufficient to support a population of 1500 detainees. A population of 1500 detainees would be expected to generate roughly 187,500 gallons per day of wastewater and to require a similar amount of drinking water. *See* Declaration of Walid Saffouri, *State of Maryland v. Mullin*, 26-cv-733 (D.Md. March 19, 2026), ECF 15-16. On the drinking water side, however, current infrastructure is likely only capable of delivering 120,000 gallons per day at maximum, and constraints are even greater on the sewerage side where the Wright Road Pumping Station has only 24,742 gallons of remaining operational capacity of which only 440 gallons remain unallocated for future use. State Agencies Letter at 9-10. Overloading these systems would result in sewage spills and backups that would pose immediate health hazards, damage real and personal property, and likely harm nearby waters and the species that rely on them for habitat. *Id.* at 9-10, 13.

To potentially address these limitations, ICE now asserts that it will make “waterline, sanitary sewer and utility improvements, including the installation of a 750,000-gallon onsite domestic water storage tank and booster pump system to minimize operational impacts to the local distribution system.” Scoping Notice at 2.<sup>1</sup> But the major construction that these improvements require is also likely to have a significant impact on the environment through sediment pollution, runoff, and impacts to the existing infrastructure systems. *See* State Agencies Letter at 2 (describing ecological impact of construction activity). Improvements on the sewage side alone would likely require excavation and replacement of the entirety of the facility’s lateral sewer lines and the 8-inch sewer main as well as significant construction activity at the Wright Road Pumping Station, including excavation of a much larger wet-well. State Agencies Letter at 10. On the drinking water side, sedimentation is also likely to occur from the replacement of the existing drinking water service line and the installation of the contemplated 750,000 gallon storage tank. All of this activity is likely to create sediment pollution and runoff to nearby waterways. It is also not clear how these improvements will affect the County’s wastewater infrastructure or the City of Hagerstown’s aging drinking water system more generally.

The State is concerned that ICE is proposing major construction to address the obvious insufficiencies of the warehouse’s existing drinking water and sewerage infrastructure without engaging in a thorough analysis to show that those improvements are appropriately sized for

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<sup>1</sup> The Scoping Notice does not clearly specify that this system will be used to store drinking water. The State assumes this is the case but welcomes additional clarity on this point.

proposed action. Regarding drinking water, for example, ICE has provided no information indicating how it determined that a 750,000 gallon water tank and booster pump system would meet the facility's needs. Assuming the facility receives its allocated 800 gallons per day from the City and that the facility uses the estimated 187,500 gallons per day of drinking water, a 750,000 gallon tank would last all of four days before being fully depleted. *See* State Agencies Letter at 10. These numbers do not add up, and ICE must show its work or else risk settling on a course of action that rests on faulty assumptions.

Taking a step back, the proposed action is also likely to have a significant impact on the surrounding communities. The nearest town, Williamsport, Maryland, is home to approximately 2,000 Marylanders, yet ICE's planned facility would house up to 1,500 detainees, nearly doubling the area's population in short order. Such a massive change in population is likely to strain emergency services, first responders, and public health services. As noted in the State Agencies Letter, congregate detention facilities like the one ICE plans here are associated with increased transmission of infectious diseases, including to the surrounding community. State Agencies Letter at 12-13. Additionally, facility operations may have adverse impacts on transportation infrastructure, the safety of local roadways, and traffic. State Agencies Letter at 14.

- II. The Scoping Notice indicates that ICE may be artificially narrowing its alternatives analysis and allowing its previous commitment of resources to prejudice its assessment.

The State is concerned that ICE's prior commitment of resources—\$102 million to purchase the warehouse and a \$113 million contract for its construction and operation—have led the agency to predetermine that the warehouse will be used as a detention facility to the exclusion of other feasible alternatives. But doing so would short-circuit the analysis required by NEPA and render the process nothing more than a “foreordained formality.” *Webster v. U.S. Dept. of Agriculture*, 685 F.3d 411, 422 (4th Cir. 2012) (quoting *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991)). *See also Metcalf v. Daley*, 214 F.3d 1135, 1143-44 (9th Cir. 2000) (rejecting EA where agency had entered into agreement to advance proposed alternative before completing analysis). That is not allowed. ICE must take a hard look at the foreseeable environmental impacts of its proposed action and reach a reasonable conclusion.

NEPA requires agencies to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(H). DHS's own instruction manual explicitly requires that an Environmental Assessment also include a “description of the proposed action and alternatives, including a description of alternatives considered but rejected.” DHS Instruction Manual at V-12. This alternatives analysis has long been described as the “heart” of NEPA analysis. *See* 40 C.F.R. § 1502.14 (2024) (rescinded).

The scope of that analysis hinges on how an agency defines the “purpose and need” of its proposed undertaking. *See* DHS Instruction Manual at V-12 (“Minimum Required Content for an EA” includes “purpose and need” statement); *see also e.g., Simmons v. U.S. Army Corps of Eng’rs*, 120 F.3d 664, 668 (7th Cir. 1997) (agency must first define “purpose of the proposed project” and then “given that purpose” ask “what are the reasonable alternatives to the project?”). An agency’s purpose and need statement must be broad enough that it allows the agency to consider a reasonable range of alternatives. *Webster*, 685 F.3d at 422-23 (describing circumstances where purpose may be unreasonable). And narrowly defining a project’s purpose and need is “one obvious way for an agency to slip past the strictures of NEPA.” *Simmons*, 120 F.3d at 669.

To this end, the Scoping Notice states that DHS “intends to prepare an environmental assessment (EA) to consider the potential environmental impacts associated with the renovation of an industrial warehouse located in Hagerstown, Maryland.” Scoping Notice at 1. But that significantly obscures the purpose of this undertaking. The proposal is not for a like-to-like renovation of a warehouse. Rather, it is to convert a warehouse into an immigration detention facility capable of holding up to 1500 individuals with a planned turnover of 3-7 days. *See* Scoping Notice at 2 (“modifications to the warehouse will be designed to accommodate up to 1,500 individuals.”); *see also* U.S. Immigr. & Customs Enf’t, ICE Detention Reengineering Initiative, <https://www.governor.nh.gov/sites/g/files/ehbemt971/files/inline-documents/merrimackdetention-reengineering-initiative.pdf>. DHS itself has acknowledged that it purchased the warehouse for the explicit purpose of converting it into a detention facility as part of its “reimagined detention structure and acquisition strategy to address the rising operational tempo and increasing number of arrests of illegal aliens,” which “would reduce the need to rely on state, local, or contractor-owned facilities.” Declaration of Shawn L. Byers, *State of Maryland v. Mullin*, No. 1:26-cv-733 (D. Md. April 2, 2026), ECF 34-3 ¶9.

The State is concerned that ICE’s mischaracterization of the proposed action indicates that the agency plans to define the project’s “purpose and need” in a way that will exclude other feasible alternatives from its analysis. Such alternatives clearly exist. On June 18, the New York Times reported that ICE had decided to “offload seven warehouses purchased for more than \$700 million by either giving them to other federal agencies or selling them outright.” Hamed Aleaziz, *ICE Spent \$700 Million on 7 Warehouses. Now it Wants to Get Rid of Them.*, New York Times (June 18, 2026), <https://www.nytimes.com/2026/06/18/us/politics/ice-warehouses-immigration.html>. ICE later confirmed that it would be moving to sell a warehouse that it had purchased in Romulus, Michigan, *See* Joint Status Update, *State of Michigan v. U.S. Department of Homeland Security*, 2:26-cv-10968-JJCG-EAS (E.D. Mich. June 22, 2026), ECF-36, and reporting has also suggested that an additional warehouse purchased in Socorro, Texas, will no longer be converted into a detention center and that ICE will retain the warehouse to use primarily for other purposes. Jeff Abbott, *ICE changing plans for Socorro warehouses*, U.S. Rep. Veronica Escobar Says, El Paso Times (June 17, 2026), <https://www.elpasotimes.com/story/news/immigration/2026/06/17/ice-no-longer-looking-to-use-socorro-warehouses-for-immigration-detention/90588262007/?gnt-cfr=1&gca-cat=p&gca-uir=true&gca-epti=z115624p002250c002250e003300v115624d--56--b--56--&gca-ft=190&gca-ds=sophi>.



III. The Scoping Notice is insufficient to allow the public to meaningfully comment on ICE's proposal.

The minimal information provided in ICE's three-page Scoping Notice is insufficient to allow the public to meaningfully comment on the likely impacts of the agency's proposed action. The Scoping Notice identifies a number of studies that ICE conducted to reach its current proposal, but ICE has made none of them available to the public. The public therefore lacks important information about ICE's proposal. This failure means that the comment period alone is insufficient for purposes of NEPA and the Administrative Procedures Act (APA), and ICE must therefore, consistent with its own Instruction Manual, allow for comment on any forthcoming draft environmental assessment.

a. DHS must make all comments and supporting documents publicly accessible.

The Scoping Notice identifies a number of documents and studies that were conducted regarding the proposed action: a property description, survey boundaries, a third-party developed Phase I Environmental Site Assessment, a preliminary renovation plan, a proposed facility operations plan, documentation on existing and newly identified cultural resources, site utilities report, preliminary floodplains information, and existing permits and approvals. Scoping Notice at 2. One would assume that these documents include important information about the project that would allow state agencies and the public to better understand its likely impacts. ICE has not, however, made these documents available to the public and its failure to do so undermines the public's ability to meaningfully respond to this notice.

The Maryland Department of Transportation, for example, has not been provided sufficient information about the facility and its planned operations to assess the traffic impacts of converting the property into an immigration detention processing center. *See* State Agencies' Letter at 14. And the Maryland Department of Health has not been able to review any plans that ICE may have developed for controlling outbreaks of communicable diseases or waterborne illnesses that are foreseeable consequences of the facility's operations. *Id.*

These documents may also contain important information about ICE's plans for water and sewer services at the facility. At various times the Scoping Notice says that ICE either "will" or "may" install a "750,000 gallon onsite water tank and booster pump system." Scoping Notice at 2. But, as noted above, the agency has not provided any detail as to how it determined that such a system is sufficient to meet the facility's projected needs and best estimates show that it is unlikely to do so.

Answers to these important questions may be in the documents referenced in the Scoping Notice, but without access to those documents, the public is left to guess at ICE's plans. That is not the informed public comment that is required for reasoned decision making under NEPA and the APA.

The State also urges ICE to make all comments filed in response to the Scoping Notice publicly accessible. ICE has instructed that comments are to be submitted to an ICE operated email address, but this deprives the public of knowing what concerns have been raised about the project. Such transparency is a bedrock of good governance and particularly important here where ICE is proposing a first-of-its-kind facility that will have significant impacts on the local communities.

- b. DHS must provide an opportunity for the public to comment on the draft environmental analysis in addition to this scoping period.

It is essential that ICE allow for public comment on the draft environmental assessment, or environmental impact statement, before finalizing those documents. As noted above, the agency has not provided the public with access to the documents and studies that are needed in order to meaningfully comment on several important aspects of the proposal. Without that input, the agency's final determination is likely to overlook important information that could be provided through a more thorough public vetting.

DHS's NEPA Instruction Manual contemplates additional comment opportunities in exactly this type of situation: "when public input received during EA development indicates the need for further public review of the environmental impact evaluation, Components normally, absent exigent circumstances, make the draft EA available to the public for review and comment for a minimum of 30 calendar days." DHS Instruction Manual at V-11. This is certainly the case here where ICE has failed to explain the engineering or operational parameters of its "750,000 gallon onsite water tank and booster pump system" or provide any of the operational and design plans that would allow for meaningful public comment regarding the facility's impact on local traffic conditions and public health. *See* State Agencies Letter at 14.<sup>2</sup>

Public notice and comment is not a box-checking exercise. It is an important principle of good governance that protects against uninformed agency action. *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349-51 (1989) (describing the importance of meaningful public comment under NEPA and the statute's prohibition on uninformed agency action). Without an additional opportunity for comment and a more transparent proposal, ICE's actions will fail to meet these standards.

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<sup>2</sup> The DHS Instruction Manual also directs that "if a proposed action is unprecedented... the Component should, whenever practicable, provide an opportunity for public involvement in the drafting of the EA *and* make [] the draft EA and draft [finding of no significant impact] available for public review, as described in 40 C.F.R. § 1501.4(e)(2)." DHS Instruction Manual at V-11 (emphasis added). ICE's proposal to turn a vacant warehouse into a detention facility and hold up to 1,500 individuals there at any given time is clearly unprecedented and public review of the draft environmental assessment and finding of no significant impact is required.

Department of Homeland Security  
Re: Early Notice and Public Review of a Warehouse  
Renovation by Immigration and Customs Enforcement in Hagerstown, MD  
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#### IV. Conclusion

The Scoping Notice provides insufficient information to address the full range of likely impacts from ICE's proposal to convert the Williamsport Warehouse into a major detention facility. For that reason alone, an additional comment opportunity is necessary. Nonetheless, it is clear, based on the State's own knowledge of the property and its supporting infrastructure, that the proposed action will have a significant impact on the environment and surrounding communities such that an environmental impact statement is required. I therefore urge ICE to find alternative uses for this property, including its sale.

Sincerely,

A handwritten signature in black ink, appearing to read "AG Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony G. Brown





Maryland  
Department of  
the Environment



July 1, 2026

Department of Homeland Security  
Immigration and Customs Enforcement  
Submitted via email to: [icesustainability@ice.dhs.gov](mailto:icesustainability@ice.dhs.gov)

Re: Early Notice and Public Review of a Warehouse Renovation by Immigration and Customs Enforcement in Hagerstown, MD

To Whom It May Concern,

We, the respective heads of the Maryland Departments of the Environment, Natural Resources, Transportation, and Health, file these comments in response to the above referenced Public Notice regarding the preparation of an Environmental Assessment for ICE's planned conversion of a commercial warehouse located at 16220 Wright Road in Washington County, Maryland into a major detention facility.

ICE purchased the warehouse on January 16, 2026 and entered into a contract to convert and operate it as a detention facility on March 6, 2026. It did so without any public review of the project's environmental impacts, without waiting for the State's response to ICE's evaluation of impacts on historic resources in the area, and without any other consultation, discussion, or transparency. The State sued and received a temporary restraining order and preliminary injunction prohibiting ICE from converting the warehouse into a detention center during the pendency of the litigation.

This Notice follows that litigation yet shows no acknowledgment of the multitude of environmental and community concerns that have already been raised regarding the project. Moreover, ICE has failed to provide public access to any of the "studies" that it references in the Notice. These reports may include important information that is otherwise missing from the Notice and which our agencies need access to if we are to meaningfully comment on the proposal. Nonetheless, we write to highlight our substantive concerns with ICE's proposal to convert the Wright Road warehouse into a major detention facility. Based on the limited information that ICE has provided we believe that ICE's proposed action will have a significant impact on the environment and communities around the facility.

I. The Proposed Warehouse Conversion Threatens Maryland's Natural Resources.

a. State Waters

Three state waterways are either adjacent to or downstream of the property: Semple Run, Conococheague Creek, and the Potomac River. Semple Run feeds into the Conococheague Creek, which feeds into the Potomac River and the Chesapeake Bay. The health of Semple Run impacts the health of Conococheague Creek, which impacts the health of the Potomac, which ultimately impacts the health of the Chesapeake Bay.

DHS must consider the significant environmental impacts to the State's waterways, nearby watersheds, and the ecosystems therein from the Proposed Action. The construction associated with the Proposed Action would increase susceptibility of the soils to erosion, leading to increased sedimentation, increased stream temperatures, changes in the variety and abundance of fish species, decreases in fish species that are dependent on cooler temperatures, and decreases in recreational activities such as fishing, boating, and tubing.

i. Semple Run

Semple Run is a state water within the Conococheague Creek watershed that runs adjacent to the Warehouse property along its southern and western boundaries. Semple Run originates to the northeast of the Warehouse property and ultimately discharges into Conococheague Creek. Similar to other streams in the Hagerstown Valley and Washington County, Semple Run is fed by limestone upriver springs within the Stonehenge Formation located near the intersection of I-70 and I-81 to the northeast stretching from approximately 1.3 km to 2.4 km upstream of the facility as well as springs approximately 1 km downstream of the Warehouse property within the Kemps Spring Ecologically Significant Area near the intersection of Semple Run with Conococheague Creek.

The cool temperatures in Semple Run and other groundwater influenced tributaries to Conococheague Creek act to keep temperatures in Conococheague Creek below temperatures in the mainstem Potomac River. This provides a thermal refugia during the summer for coolwater sportfish, including muskellunge, walleye, smallmouth bass, and other popular sportfish that have economic value. The cool waters of Semple Run support the survival and growth of hatchery-raised brown and rainbow trout introduced to state waters. The water quality of Semple Run is threatened by land use changes that increase sedimentation and stream temperatures. Runoff from impervious surfaces can increase stream temperatures, which may result in changes in the variety and abundance of fish species and decreases in fish species that are dependent on cooler temperatures.

ii. Conococheague Creek

Conococheague Creek is one of the primary tributaries of the Potomac River. Conococheague Creek is a free-flowing stream that originates in Pennsylvania and travels southward for 80 miles ending at the Potomac River near Williamsport, Maryland. The Conococheague Creek watershed is located in both Maryland and Pennsylvania, with a drainage area of 568 square miles. The majority (88.4%) of the watershed is in Pennsylvania (in Franklin,

Adams, Cumberland and Perry Counties) with the remaining portion in Washington County, MD. Conococheague Creek has a low gradient with a very shallow profile and a bottom substrate consisting of limestone bedrock, cobble, and pea gravel. Its shallow waters lead to prominent submerged aquatic vegetation growth over the summer months, creating habitat for fish.

Conococheague Creek and its tributaries are designated as Use IV-P by the State, meaning that the water use is designated as recreational trout waters and public water supply. COMAR 26.08.02.08Q. Because Conococheague Creek is shallow and has low turbidity, it is popular for recreational activities such as fishing, boating, and tubing.

The Maryland portion of Conococheague Creek supports a warmwater fishery for smallmouth bass, redbreast sunfish, rockbass, common carp, muskellunge, walleye, flathead catfish, and channel catfish. The creek supports a low diversity but high-density macroinvertebrate population. The tributaries of Conococheague Creek include Semple Run, Kemps Mill Run, Toms Run, and Rockdale Run, as well as numerous other unnamed streams and creeks.

Currently, Conococheague Creek is considered biologically impaired due to stormwater runoff from Hagerstown and Williamsport and an increase in impervious surface cover. In addition, agricultural land use in the watershed and in the riparian buffer zone has led to elevated levels of nutrients and inorganic pollutants in the creek.

### iii. The Potomac River

The Potomac River is a warmwater nontidal river that originates in the Allegheny Mountains of western Maryland, southern Pennsylvania, and West Virginia. The Potomac River is the second largest tributary to the Chesapeake Bay. The “Upper Potomac” refers to the warmwater, nontidal portion of the river that forms over 200 miles of Maryland’s southern border from Cumberland to Washington D.C.

Though much of the Upper Potomac overlaps with public lands and state-managed forests and parks, pollution from wastewater, agricultural runoff, and urban stormwater runoff currently threatens the water quality of the river. In addition, excess nutrients, sediment, and pollutants enter the river from maintenance and construction projects.

The Upper Potomac is managed for warmwater and coolwater nontidal fish species, including walleye, muskellunge, channel catfish, and smallmouth bass.

### b. Potentially Impacted Wildlife and Aquatic Species

A number of State-listed Endangered species, Species in Need of Conservation, and other Rare species rely on the waters in the vicinity of the Warehouse property. DHS must consider the Proposed Action’s significant environmental impacts to these State protected species. The construction and operation of the detention facility would increase pollution from nutrient and sediment runoff, increase habitat loss, fragmentation, and degradation, and increase water temperatures to the detriment of the species relying on cooler water temperatures.

i. State-Listed Endangered Species

The Upper Potomac River, immediately downstream of the confluence with Conococheague Creek, is home to two state endangered mussel species: brook floater mussel and green floater mussel. A person may not take any endangered wildlife, reptile, amphibian, mollusk, crustacean, or finfish species in the State except by special permit from the Director of Wildlife and Heritage Services for the Department of Natural Resources. COMAR 08.03.08.04.

These species belong to one of North America's most imperiled taxonomic groups: freshwater mussels. Freshwater mussels inhabit river substrate materials while filtering the water column for feeding, respiration, and reproductive purposes. Freshwater mussels play an important role in stream habitats. One adult mussel can filter an estimated 10-15 gallons of water a day, and the presence of mussels has been linked to healthy fish populations. According to U.S. Environmental Protection Agency (U.S. EPA) data, a 6-mile stretch of mussel beds can remove 25 tons of particulates per year. Freshwater mussels are colloquially referred to as "biosentinel" species because their presence indicates healthy waters.

Because of the important role mussels fill in the freshwater ecosystem of the Potomac River and the Chesapeake Bay watershed, the Department of Natural Resources and its partners across the region, including nonprofits and federal, state, and local governments, have dedicated millions of dollars to protect and restore these species, including the following:

- Through a pilot project funded by the State of Maryland, the National Fish and Wildlife Foundation, and the Chesapeake Bay Program, the Department of Natural Resources has begun a project to restore both common and endangered mussel species in the Potomac River upstream of Williamsport, Maryland.
- In the 2025 Chesapeake Bay Agreement, an agreement between Maryland, Virginia, Delaware, New York, Pennsylvania, West Virginia, the District of Columbia, and the U.S. EPA, the State of Maryland has agreed to develop comprehensive freshwater mussel conservation plans for 10 tributaries and implement key recommendations from at least five of these plans by 2040.
- Because freshwater mussels are sensitive to changes in temperature, the Department of Natural Resources has been replanting trees along riparian corridors to increase the shade cover of streams, reduce run-off, restrict sediment from entering streams, and reduce water temperatures. As of this time, the Department of Natural Resources has planted over 100,000 linear feet and 32 acres of riparian forest buffers along Maryland streams.
- Through a new mussel hatchery program at the State's Joseph Manning Fish Hatchery, the Department of Natural Resources has begun propagating mussels to be planted in waterways across the State, including the Potomac River.
- As part of a settlement between Constellation Energy, the Maryland Department of the Environment, and environmental advocates, Constellation Energy has committed to paying Maryland \$23 million to help support the construction, operation, and maintenance of a mussel hatchery.

- The Potomac Riverkeeper Network has partnered with the Department of Natural Resources, and other regional partners, to initiate a “50 Million Mussel Project” with the goal of restoring 50 million native freshwater mussels to the Potomac River by 2040.

In 2016, a State Highway Administration contractor located both brook floater mussels and green floater mussels during a species salvage operation required as a permit condition for nontidal wetlands mitigation. The operation was located at the I-81 bridge which is about 1 mile downstream from the Potomac’s confluence with Conococheague Creek. The mussels were relocated upstream of the bridge (i.e. closer to the Conococheague confluence) in order to avoid harm from construction activity at the bridge.

### 1. Brook floater mussels

Brook floater mussels (*Alasmidonta varicosa*) are a small- to medium-sized freshwater mussel that are found in rivers and streams with consistently flowing water and substrates that have sandy or gravelly bottoms, where they burrow into the sediment to anchor themselves.

The brook floater mussel is listed as endangered in the State due to significant declines in population, severe threats, and a restricted range. COMAR 08.03.08.04C(2)(b). The brook floater mussel has been found in the Potomac River downstream of Conococheague Creek.

Like other freshwater mussels, brook floaters help keep waterways clean by filtering bacteria, algae, and plant and animal debris out of the water. These mussels form “beds” at the bottom of the water which stabilizes the substrate, creating shelter and breeding grounds for various fish and invertebrates. Brook floaters also play an important role in the food chain, as prey for many aquatic mammals such as otters and muskrats.

Ongoing threats to the conservation of brook floater mussel include rising water temperatures, competition from invasive species, habitat loss or fragmentation, and polluted waterways from nutrient and sediment runoff.

On February 13, 2026, in response to an April 17, 2025 lawsuit filed by the Center for Biological Diversity challenging the U.S. Fish and Wildlife Service’s decision not to list the brook floater mussel under the federal Endangered Species Act, the U.S. Fish and Wildlife Service agreed to reevaluate whether listing the brook floater mussel as a threatened or endangered species is warranted. The U.S. Fish and Wildlife Service agreed to publish its decision by August 30, 2029 at the latest.

### 2. Green floater mussels

Green floater mussels (*Lasmigona subviridis*) are also listed as an endangered species within the State. COMAR 08.03.08.04C(2)(d). Green floater mussels have been observed in the Potomac River downstream of Conococheague Creek.

Green floater mussels are primarily found in streams with slow to medium flows and good water quality. These mussels are often found in sand or small gravel substrates where they establish a foothold and bury themselves as deep as 15 inches. They have limited mobility, and fast-flowing currents or high-water events can cause them to be washed downstream. When they

occur in larger streams and rivers, they are found in quieter pools and eddies, away from strong currents.

Like all freshwater mussels, green floaters require clean water with low levels of contaminants, adequate dissolved oxygen, and low salinity. Ongoing threats to green floaters include excessive sedimentation from energy, agriculture, and commercial development, degraded water quality from chemical contamination and agricultural runoff, and increased water temperatures from climate change, loss of riparian streams, stormwater and wastewater effluents, and low stream flow during drought periods.

Because green floaters only live for three to four years and increased habitat fragmentation has led to small, fragmented colonies, destructive events such as pollution, droughts, excessive rainfall, and competition by invasive species can lead to the extirpation of an entire local population of green floaters.

Though the green floater can still be found in seven states, including Maryland, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and West Virginia, there are no recent records of green floater mussels in New Jersey or Washington D.C., and the species is considered extirpated from Alabama, Georgia, and other rivers within its native range. Green floaters are considered rare in 80% of the watersheds where they occur.

In 2023, the U.S. Fish and Wildlife Service proposed to list the green floater as “threatened” under the Endangered Species Act because of the likelihood the species would become endangered within the foreseeable future due to existing and emerging threats. 88 Fed. Reg. 48,294 (July 26, 2023). The U.S. Fish and Wildlife Service also proposed designating approximately 1,586 miles of waterways in Maryland, New York, North Carolina, Pennsylvania, Virginia, and West Virginia as critical habitat for the green floater under Section 4(a)(3) of the Endangered Species Act, including approximately 205.4 miles of the Potomac River. This proposed segment of critical habitat includes the Potomac River downstream of its confluence with Conococheague Creek where green floater mussels have been observed.

## ii. State-Listed Species in Need of Conservation

Maryland defines a “species in need of conservation” as “any species determined by the Secretary to be in need of conservation measures for its continued ability to sustain itself successfully.” COMAR 08.03.08.01(B)(14). DNR may list a species as “in need of conservation” if the population is limited or declining within Maryland and if the species may become threatened in the foreseeable future if current trends or conditions persist. COMAR 08.03.08.09A. A person may not take a species in need of conservation without a special permit issued by DNR, although incidental taking is not prohibited. COMAR 08.03.08.09B.

### 1. Allegheny pearl dace

The Allegheny pearl dace (*Margariscus margarita*) is a species of fish that the State protects as a Species in Need of Conservation. COMAR 08.03.08.09C(4)(b). Although the Allegheny pearl dace has an extensive range outside of Maryland, it is at moderate to high risk of extinction or expiration within the state due to a restricted and reduced range, low population sizes, and severe threats.



Maryland Biological Stream Survey (“MBSS”), a program within the Department of Natural Resources, has surveyed many of the streams, creeks, and unnamed tributaries to Conococheague Creek that are in the vicinity of Semple Run. MBSS has observed the Allegheny pearl dace in these waters, including an unnamed tributary just upstream of Semple Run. MBSS has not yet surveyed Semple Run but the presence of Allegheny pearl dace in an upstream tributary indicates its potential presence in Semple Run as well.

## 2. Appalachian springsnail

Appalachian springsnail (*Fontigens bottimeri*) is a species of mollusk which has been listed by the State of Maryland as a Species in Need of Conservation. COMAR 08.03.08.09C(1)(b). Appalachian springsnail is an aquatic snail found only in the Potomac River basin in Maryland and Washington, D.C., and in the Shenandoah River basin in northwestern Virginia. It is an indicator of high quality groundwater and faces threats from pollution and habitat degradation. Appalachian springsnail has been found in the limestone springs that feed Semple Run.

## 3. Allegheny cave amphipod

Allegheny cave amphipod (*Stygobromus allegheniensis*) is a species of crustacean which has been listed by the State of Maryland as a Species in Need of Conservation. COMAR 08.03.08.09C(2)(b). Allegheny cave amphipods have been found in the limestone springs that feed Semple Run.

A groundwater-restricted crustacean, the Allegheny cave amphipod is adapted to subterranean habitats including streams, drip pools and phreatic pools in limestone caves or in groundwater interstices and spring water emergence zones within other sedimentary bedrock. Stygobites, as this type of organism is classified, are unpigmented and eyeless, exhibit low reproductive rates, enhanced longevity, and characteristically occur in sparse populations. Conservation of the Allegheny cave amphipod is threatened by reductions in water quality from excess runoff and sedimentation from adjacent development as well as groundwater degradation.

## 4. Franz’s cave amphipod

Franz’s cave amphipod (*Stygobromus franzi*) is a groundwater-restricted crustacean which has been listed by the State of Maryland as a Species in Need of Conservation. COMAR 08.03.08.09C(2)(c). Franz’s cave amphipod have been found in the limestone springs that feed Semple Run. Similar to the Allegheny cave amphipod, Franz’s cave amphipod is also adapted to subterranean habitats, including springs, and is threatened by reductions in water quality and groundwater degradation.

### iii. State-Listed Rare Species

Nearly 800 native species and subspecies of plants and wildlife in the State are not listed as endangered, threatened, or in need of conservation but still warrant conservation attention because the species are declining or are at risk of decline. The Department of Natural Resources refers to these generally as “rare” species. The Department of Natural Resources assesses species for tracking as a rare species based on various factors, including: species distribution, abundance,

and trend; threats (number, immediacy, extent and/or reversibility of known threats to species populations); state responsibility (relative importance of the state to conservation of the species); habitat protection and management (amount of occupied habitat which may occur on protected land and managed to support the species); and information deficiency (lack of basic information needed to evaluate conservation status).

#### 1. Checkered sculpin

The checkered sculpin (*Cottus sp. 7*), a small, bottom-dwelling fish that is found solely within limestone-influenced waters that remain below 68 degrees. It is considered a rare species in the State and is often found in similar areas as the Allegheny pearl dace. Checkered sculpin are known to occur in the vicinity of Conococheague Creek and Semple Run. The checkered sculpin is highly susceptible to sedimentation and changes in temperature and quality. Because of increased sedimentation from agriculture and urban development, DNR considers the checkered sculpin at risk of declining within the State.

#### c. Ecologically Significant Areas

The Department of Natural Resources has identified two Ecologically Significant Areas within one half mile of the warehouse property. Ecologically Significant Areas may be identified based upon the presence of a State-listed Rare, Threatened, or Endangered Species; habitat that supports known locations of such species; and/or the presence of a significant natural community of ecological value. DHS must consider the significant environmental impacts to these areas from the Proposed Action. This includes increased runoff and sedimentation, increased impervious surfaces, and other adverse impacts.

The Kemps Springs Ecologically Significant Area is approximately 2,000 feet to the property's southwest and is home to limestone springs and associated rare invertebrates. These springs feed into Semple Run and may be affected by changes in water quality, temperature, and flow patterns from Semple Run as well.

Kemps Springs is identified as an Ecologically Significant Area because it includes the area where three invertebrate species listed in Maryland as In Need of Conservation have been documented (Appalachian springsnail, Allegheny cave amphipod, and Franz's cave amphipod). Kemps Springs Ecologically Significant Area has been identified as an area which is prioritized by the Department of Natural Resources as extremely significant for biodiversity conservation.

The Conococheague-Kemps Mill Ecologically Significant Area is approximately 1,400 feet to the project's northwest. One reason Conococheague - Kemps Mill has been identified as an Ecologically Significant Area is that it includes the area where a fish listed in Maryland as In Need of Conservation has been documented (Allegheny pearl dace).

#### II. Existing Infrastructure is Insufficient and the Proposed Action will have Significant Impacts on the Environment and Surrounding Communities.

The Scoping Notice discloses that ICE conducted a Wastewater & Domestic Water Infrastructure Assessment and is proposing waterline, sanitary sewer and utility improvements, including the installation of a 750,000-gallon onsite domestic water storage tank and booster

pump system to minimize operational impacts to the local distribution system. But ICE has not publicly disclosed that assessment and it is difficult to comment on the impacts of its proposed actions based merely on the vague description provided by the Scoping Notice itself. This continued lack of transparency is particularly troubling given the extensive concerns that the State has previously raised about the existing drinking water and sewerage infrastructure serving the facility.

a. Sewer Infrastructure

In previous comments, the State raised significant concerns regarding the capacity of the existing water and sewer infrastructure currently serving the warehouse and surrounding facilities to accommodate the exponential increase in sewage flow that this facility is likely to create. Without access to the Wastewater & Domestic Water Infrastructure Assessment referenced in the Scoping Notice, it is hard to know whether these concerns were addressed. Based on the Maryland Department of Environment's best analysis, and using existing prisons as a guide, we would expect a facility housing 1,500 people to produce more than 187,000 gallons per day (GPD) in effluent - more than seven times the existing projected flow for the facility's prior commercial use.

As the State has previously detailed, the existing sewer infrastructure is insufficient to meet this massive increase in flow. According to the property's location plans, sewage leaves the facility through an 8-inch lateral sewer line which transitions to a 6-inch lateral line shortly after leaving the warehouse's footprint. That 6-inch lateral line then ties into an 8-inch sewer main which connects to the Wright Road Pumping Station. This infrastructure is likely insufficient to meet the needs of the facility at every step. A 6-inch sewer line can handle approximately 63,500 gallons per day of flow and an 8-inch sewer line approximately 112,800 gallons per day. Thus both lateral lines, as well as the 8-inch sewer main, which also carries flow from other properties along the same sewer system, are insufficient.

The situation is even more pressing for the Wright Road Pumping Station. That facility is designed to handle a maximum flow of 102,240 gallons per day and already receives an average of 77,498 gallons per day (approximately 76% of its capacity). That leaves only 24,742 gallons per day of available capacity, far less than the additional 187,500 gallons per day that the converted warehouse would be expected to generate.

Moreover, Washington County has already allocated over 99% of the capacity of the Wright Road Pumping Station (101,800 out of 102,240 gallons) meaning that any increase in flow from this now vacant warehouse may push the system beyond its limit. The property itself has been allocated only 2 equivalent dwelling units (EDUs) or 400 gallons per day for sewage flow to the pumping station.

The Scoping Notice states that ICE anticipates that modifications to the sewer and domestic water supply systems will occur in three phases but provides no further detail of what those phases are and how they will be ordered. This is concerning because any increased flow from the property to the pumping station before the station has been upgraded will likely overload the existing infrastructure. Overloading the pumping station would cause the system to overflow and/or backup resulting in the discharge of sewage that could harm the environment

and waters of the State and create immediate health hazards and damage to real and personal property.

To prevent such an occurrence, on April 13, 2026, the Maryland Department of the Environment issued an Administrative Order to Washington County instructing the County to submit an updated Water and Sewerage Plan to the Department and prohibiting the County from allocating, authorizing or facilitating any increased sewage flow to the Wright Road Pumping Station beyond the remaining two EDUs of capacity, or otherwise installing, modifying, or extending any portion of the sewage system that flows to the Pumping Station until the County Water and Sewerage Plan is approved. *See* ECF38-1, *Maryland v. Mullin*, 26-cv-00733 (D. Md.) (filed April 13, 2026). That Administrative Order remains in effect.

Construction to expand the system to the point where it can handle the expected flows from the facility would involve significant excavation along the entirety of the facility's lateral sewer lines and the 8-inch sewer main. It would also require excavating a much larger wet-well at the Wright Road Pumping Station and other major construction activity to ensure the station meets current standards. This activity would likely result in sediment pollution to nearby waters.

#### b. Drinking Water Infrastructure

The State also has concerns about how ICE plans to provide adequate drinking water to the 1500 individuals that it anticipates housing at the facility. The warehouse is connected to the City of Hagerstown's drinking water system via a 2-inch service line and is currently allocated only 800 gallons per day of drinking water. Based on standard estimates, a 1,500 person detention facility would be expected to require around 187,500 gallons per day of drinking water. Based on real-world data from the state operated Eastern Correctional Institution a 1500 person facility would be expected to require over 311,000 gallons per day of drinking water. A 2-inch service line can physically deliver between 65,000 and 120,000 gallons per day of drinking water depending on factors like pipe material, pipe age, pipe length, and system pressure.

The Scoping Notice indicates that the proposed action may include the installation of a 750,000-gallon storage tank and booster pump system for domestic water and upsizing onsite domestic water service lines. Without access to the Wastewater & Domestic Water Infrastructure Assessment it is hard to know whether these changes will be sufficient to meet the facility's drinking water needs, but the state has serious concerns that they will not.

Assuming the facility will use 187,500 gallons per day of drinking water and receive its allocated 800 gallons per day from the City, a 750,000 gallon tank would last all of four days before being completely depleted and at that 800 gallon per day rate it would take more than 900 days to fill the water tank to capacity.

The State also reminds the agency that the proposed 750,000-gallon water storage tank with booster pump system, and the expansion of the off-site lift station will require a Water and/or Sewerage Construction Permit from the Maryland Department of the Environment. Upsizing water and sewer lines may also require a permit if the upsized water and/or sewer lines are more than 15 inches in diameter.

c. Temporary Solutions Pose Their Own Environmental Risks and Are Not Permitted by State Law.

Under best case scenarios, the upgrades and improvements described in the Scoping notice might be completed in two to three years. It may take longer if issues are encountered during planning, design or construction. In the interim, the State reminds ICE that temporary solutions are not permitted under Maryland law. *See generally* COMAR 26.04.02.

Temporary facilities are more prone to issues like water service interruptions and sewage backups and overflows that pose public health risks to the residents and employees at the facility as well as the surrounding community and environment. The State prohibits the use of temporary facilities or portable units for water supply or sewage collection - including but not limited to water buffaloes, mobile water storage tanks or trailers, chemical toilets, restroom trailers, or similar devices – to support or facilitate: “(1) the occupation or use of a new building or structure; (2) the occupation or use of a modification, alteration, extension, or expansion of an existing building or structure; or (3) a change in use.” *See* COMAR 26.04.02.08.A.

d. Wetlands and Waterways Permit Requirements

The State also has determined that areas of the property fall within the 100-year floodplain. Under State law, any activity within the floodplain, even temporary and construction-related work, requires wetlands and waterways permits or authorizations from the Maryland Department of the Environment. To date, MDE has not received any plans or permit applications related to activities in the floodplain.

Moreover, large portions of the property adjacent to the warehouse are subject to stormwater management easements required as a condition to the warehouse’s original construction. This leaves little actual space for the construction of ICE’s proposed 750,000 gallon water storage tank and booster pump system and the state is concerned that such construction may impact the existing easements.

e. Clean Air Act Permit Requirements

The State also expects that the modifications needed to convert the warehouse into a facility habitable by people will require permits to comply with federal and state air quality requirements. The Maryland Department of the Environment has no record of existing air quality permits for building heating systems or backup generators at this facility, which may be necessary to make it appropriate for housing people.

The Scoping Notice states only that ICE expects the project to include “installation of a new generator” without any more detail. But documents produced by the agency during litigation previously specified that the project will involve “replacement of the existing emergency generator with a larger capacity unit (approx. 1,000 kw).” ECF 34-1 at 2, *Maryland v. Mullin*, 26-cv-00733 (D. Md.) (filed April 2, 2026). Any fuel-burning emergency generator rated at 500 brake horsepower (373 kilowatts) or more must receive an air quality permit from the state before installation. Likewise, any fuel-burning boiler with a rated heat input of 1 million BTU per hour or more must receive an air quality permit from the state before installation.

### III. The Project Presents Significant Public Health Challenges.

#### a. Infectious Diseases

The proposed action will potentially have a significant impact on public health in the surrounding area. Congregate detention facilities are well documented as presenting higher risk for infectious disease outbreaks, as compared to non-congregate settings, including outbreaks of measles, mumps, tuberculosis, influenza, COVID-19, hepatitis A, hepatitis B, and multidrug-resistant organisms.<sup>1</sup> Factors that promote the transmission of infectious diseases in prisons, detention centers, and other correctional settings have been described in the public health literature. For instance, ICE detention centers specifically have been documented as “high-risk environments for infectious diseases” due to generally crowded living conditions, and limited access to preventative care, among other factors. *See* Lo at 182.

In addition to some of the conditions noted above which promote spread within a facility, incarcerated persons also interact with staff, volunteers, and visitors, who can be infected within a facility and then transmit to family or other individuals outside of the facility, thereby resulting in community spread. For some infections, such as measles, this could also result in the need for public health community contact tracing and potentially the need for quarantine of unvaccinated exposed individuals. Publicly available information confirms that the increased risk factors noted above have resulted in disease outbreaks at other ICE detention facilities across the country. For example, reporting revealed outbreaks of tuberculosis and COVID-19 in an El Paso ICE Facility, and measles outbreaks in ICE facilities in Texas and Arizona.<sup>2</sup>

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<sup>1</sup> *See, e.g.,* Lauren J. Young, *Measles Outbreak Erupts in One of U.S.’s Largest ICE Detention Centers*, Scientific American (March 5, 2026), <https://www.scientificamerican.com/article/measles-outbreak-erupts-in-one-of-u-s-s-largest-ice-detention-centers/>; Ribhav Gupta, et. al., *Epidemiology of 3 Vaccine-Preventable Infectious Diseases Within US Immigration Detention Centers*, 8 JAMA Network Open (2025), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2840395>; Newton E. Kendig et. al., *Infection Prevention and Control in Correctional Settings*, 30 Emerging Infectious Diseases 88 (2024), [https://wwwnc.cdc.gov/eid/article/30/13/23-0705\\_article](https://wwwnc.cdc.gov/eid/article/30/13/23-0705_article); Jason R. Andrews, et. al., *Enduring Injustice: Infectious Disease Outbreaks in Carceral Settings*, 229 Journal of Infectious Diseases 307 (2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10873189/>; Nathan C. Lo, et. al., *Influenza, Varicella, and Mumps Outbreaks in US Migrant Detention Centers*, 325 JAMA 180 (2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7596678/>; Bianca Malcolm, *The Rise of Methicillin-Resistant Staphylococcus aureus in U.S. Correctional Populations*, 17 Journal of Correctional Health Care 254 (2011), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3116074/>.

<sup>2</sup> *See* Young *supra* note 1; *Haitian Man Dies in US Immigration Custody Due to Untreated Toothache, Brother Says*, Le Monde with AP (March 5, 2026), [https://www.lemonde.fr/en/international/article/2026/03/05/haitian-man-dies-in-us-immigration-custody-due-to-untreated-toothache-brother-says\\_67511184.html](https://www.lemonde.fr/en/international/article/2026/03/05/haitian-man-dies-in-us-immigration-custody-due-to-untreated-toothache-brother-says_67511184.html); Katie Thomas, Jessica Silver-Greenberg and Melena Ryzik, *Sick Detainees Describe Poor Care at Facilities Run by ICE Contractor*, NY Times (February 14, 2026) <https://www.nytimes.com/2026/02/14/business/ice-health-care-corecivic-immigrants-detention.html>; Colleen Deguzman and Lomi Kriel, *Two Cases of Tuberculosis Detected at El Paso ICE Facility*, The Texas Tribune (February 7, 2026), <https://www.texastribune.org/2026/02/07/ice-facility-el-paso-tuberculosis/>.

ICE has previously indicated that individuals at this facility will be detained for short periods of time, purportedly three to seven days, due to this facility's designated status as a "processing center." Assuming the accuracy of this estimate, the facility, if at capacity, would host and transfer between 78,000 and 180,000 people per year. This is a large population to be moving into and out of a single detention facility. The rapid ingress and egress of detained individuals, some of whom could be infectious with a range of pathogens, as well as the movement of staff in and out of the facility, contributes to the further increased risk of infectious disease outbreaks both at the facility and throughout the local community outside of the facility.

#### b. Waterborne Infections

Many waterborne infections can occur in correction and detention facilities, such as Legionnaires' disease. While not usually transmitted person to person, Legionnaires' disease is a form of pneumonia caused by inhaling fine aerosols of water contaminated with *Legionella* bacteria. *Legionella* bacteria can be found in low concentrations in most water systems; however in large buildings and facilities with more complex potable heated water systems, the concentration of bacteria can increase to levels more likely to cause infections. The bacteria can be aerosolized by a variety of devices including showers and faucets. Individuals inhaling those aerosols can become infected. Water systems at correctional facilities in Washington County, Maryland have registered demonstrable levels of *Legionella* bacteria and documented cases of Legionnaires' disease have occurred as well. Since there is an enhanced risk of Legionnaires' disease and other waterborne infections, CDC and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 188-2021 recommend that operators of all large buildings, especially those that house people, have a water management program and water management plan.<sup>3</sup> ICE has failed to release the studies that it has conducted in relation to the warehouse property and its proposed conversion into a detention facility and it is not clear from the list of studies included in the Scoping Notice if that work has included a water management program and water management plan. Absent such a plan, the detention facility would pose a heightened risk of Legionnaires disease and other waterborne infections.

In addition, the Maryland Department of the Environment has stated that current wastewater infrastructure at the facility is likely not sufficient to accommodate the population that ICE plans to house at the facility. In the event of sewage backups occurring at the facility or in the local community, exposure to sewage containing stool would create a risk for enteric bacterial pathogens, such as *E coli*, *Salmonella*, and *Campylobacter*, or other infections transmitted by stool. Preventing infectious disease outbreaks in facilities like the one at issue here takes sustained and comprehensive planning, emphasizing the importance of detection, treatment, infection prevention and control practices, and continued access to high-quality medical care. It is also critical to have plans for preventing the spread of outbreaks that initiate within facilities, like the one at issue, and

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<sup>3</sup> CDC, *Developing a Water Management Program to Reduce Legionella Growth & Spread in Buildings* (September 30, 2025), <https://www.cdc.gov/control-legionella/media/pdfs/toolkit.pdf>; ASHRAE, *Guidance to Help Minimize the Risk of Legionellosis* (2021), <https://www.ashrae.org/technical-resources/bookstore/ansi-ashrae-standard-188-2021-legionellosis-risk-management-for-building-water-systems>.

spread to the local Maryland community and more broadly, as detainees are moved to other locations in the US.

To our knowledge, ICE has not disclosed plans for any prevention and mitigation measures for this facility, such as medical screening at entry and exit, offering vaccinations, providing for epidemiological surveillance, training staff in infection control, and establishing communication channels with local health authorities, among other actions. Absent comprehensive infection control plans, the planned detention facility poses a further increased risk of infectious disease outbreaks to individuals in the facility and the local community.

We therefore request that ICE provide the Maryland Department of Health with a written infection prevention and control plan for the facility (including identification of who will be responsible for any actions detailed in the plan). In addition we request confirmation that ICE has established a water management program for the facility and that ICE provide the Maryland Department of Health with a copy of a written water management plan that addresses the elements noted in the CDC toolkit and the ASHRAE guidance.<sup>4</sup>

#### IV. The Project Could Also Impact Traffic and Road Conditions in the Surrounding Area.

Without additional information, the State Department of Transportation is unable to determine the traffic impacts to the surrounding communities and the state and interstate roadways in the area. Basic information concerning anticipated staffing levels, site operations, and detainee movement is needed in order to determine whether the project would have adverse transportation, safety, or congestion impacts. Possible impacts include congestion and degraded service on nearby roads; impacts on local emergency response times and access routes; and safety concerns accompanying increased heavy-vehicle traffic.

#### V. Conclusion

To date, ICE has not provided the public with access to important information about its plans leaving the State without the information it needs to analyze several important aspects of the proposal. Still, it is clear that ICE's proposal to convert a vacant commercial warehouse in Washington County, Maryland into a 1500 person immigration detention facility will have a significant impact on the environment and surrounding communities.

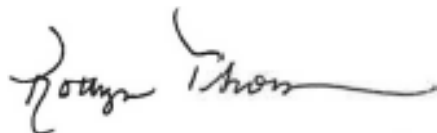


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Josh Kurtz  
Secretary of Natural Resources

A handwritten signature in black ink, appearing to read "Serena McIlwain".

Serena McIlwain  
Secretary of the Environment

A handwritten signature in black ink, appearing to read "Katie Thomson".

Katie Thomson  
Secretary of Transportation

A handwritten signature in blue ink, appearing to read "Meena Seshamani".

Meena Seshamani  
Secretary of Health