

## I-395/Route 9 Connector Study Biweekly Status Report

Larry Adams

4/26/2013 3:04 PM

To: Representative Arthur Verow - District#21; Senator Edward Youngblood - District#31; Carol Woodcock / U.S. Senator Susan Collins; Darlene Simoneau (Clerk) / 126th JSC on Transportation; Holly Mullen (Clerk) / 126th JSC on Appropriations and Financial Affairs; Representative David Johnson - District#20; Elizabeth Montgomery Schneider MacTaggart / U.S. Senator Angus King; Rosemary Winslow / U.S. Congressman Mike Michaud;

Cc: Brewer City Council; Mayor Jerry W. Goss; Councilor Kevin O'Connell; Representative Arthur Verow - District#21; Brewer City Manager; Eddington Board of Selectman and Town Manager;



Good afternoon to all:

The latest MDOT I-395/Route 9 Connector biweekly status report was sent out to the impacted communities Friday, April 19th.

A Bangor Daily News article was posted on April 17th referring to the recent FOAA briefing held in Eddington; that news article was mentioned in the status report.

I found the status report confusing and wondered why the freeway design criteria and the 200 foot minimum right-of-way was once again reiterated and the Draft Environmental Impact Statement was declared the current document of record even though we have multiple sources of evidence that the end-state design for the preferred alternative will be a rolling criteria design with a 100' right-of-way and not the freeway criteria design with the 200' right-of-way as specified in the DEIS. The end-state design is not in the DEIS, although the reduced cost of the end-state design is included in the DEIS.

I have added, once again, several FOAA documents that will show the evidence of the rolling design change and a FOAA document from August 2011 that indicates the change to the reduced right-of-way.

The status report makes mention of what was considered substantive as that was a real hot button issue at the Eddington meeting; I clearly show the importance of that by showing the non-substantive information that is now buried in the back of the book with no further comment. What is not substantive may actually be more important than what is. I break down the definition of substantive; I believe the MDOT definition of substantive used in this process was too restrictive.

Since the documents I present also indicate an issue that hasn't been talked about, I added Mr. Hasselmann's concerns that the 2B-2/preferred alternative no longer met the Purpose and Needs in December 2011. He was overruled by his superiors. I think Mr. Hasselmann's concerns deserve an independent review; several responses to a NEPA Forum occurring at that same time are included that seem to agree.

Thank you for your time and consideration.

Larry Adams

# A Rebuttal to MDOT's Biweekly Report

Biweekly report provided on 4.19.13 to Managers and PAC members of the impacted communities:

**Larry Adams**

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**From:** "Charette, Russ" <Russ.Charette@maine.gov>  
**Date:** Friday, April 19, 2013 2:38 PM  
**To:** <albromley@roadrunner.com>; <john.bryant@amforem.biz>; <John@HoldenMaine.com>; <ljohns@brewerme.org>; <rkenserson@emdc.org>; <RPLane@laneconstruct.com>; <townofeddington@roadrunner.com>; <SBost@BrewerME.org>  
**Cc:** <micker@bangordailynews.com>; "Plumpton, William M." <wplumpton@GFNET.com>; "Rollins, Scott" <Scott.Rollins@maine.gov>; <Mark.Hasselmann@FHWA.dot.gov>; "Cassandra Chase (Cassandra.Chase@dot.gov)" <cassandra.chase@dot.gov>; "Talbot, Ted W (PIO)" <Ted.W.Talbot@maine.gov>; "Thomson, Herb" <Herb.Thomson@maine.gov>  
**Subject:** I-395/Route 9 Transportation Study  
No major changes in development since the last report. MaineDOT continues to assemble the additional information requested by the U.S. Fish and Wildlife Services related to the Biological Assessment (BA) that was previously submitted.

It should be noted that this additional work effort is "in the queue" for the staff in our Office of Environment, one of many projects they are working on.

There was a lot of information included in a recent news article, some of which may be misleading..

It is important to note that the Draft Environmental Impact Statement (DEIS) contains the information pertaining to the project and is the current document of record. The National Environmental Policy Act (NEPA) requires and defines a **process** by which MaineDOT and FHWA evaluates proposed projects. As such, individual documents may not be the current correct information and represents a snapshot of that point in time. The purpose of NEPA and the NEPA document (in this case, an EIS) is not to document the decision, but to be the decision-making document. Comments received on the DEIS will be incorporated into the Final Environmental Impact Statement (FEIS). Any comments on the DEIS that were determined to be substantive require a response which will be included in the FEIS.

To be clear, the proposed Right of Way for the project corridor is 200 feet (minimum). The design standard used for the evaluation of the 79+ alternatives considered in the process is the "Freeway" design standard as documented in the DEIS and continues to be the standard for environmental processing. There are multiple "standards" available dependent on the functional classification of the highway segment you propose to build. For example, the interstate(Freeway) system has six to one in-slopes compared to four to one slopes for non-freeway arterials. If a build alternative is constructed it will be designed and built to national standards to the proposed design speed and classification for the highway.

Please let me know if you have any questions.

Russell Charette – Project Manager

Russell D. Charette, P.E.  
Director, Mobility Management Division  
Bureau of Transportation Systems Planning  
MaineDOT 16 State House Station  
Augusta, Maine 04333  
Phone: 207-624-3238  
Fax: 207-624-3301  
E-Mail: [Russ.Charette@Maine.Gov](mailto:Russ.Charette@Maine.Gov)

## My initial thoughts:

1. "There was a lot of information included in a recent news article, some of which may be miss-leading.."
  - Sources of information, in the recent news article, were FOAA documents from several key players of the I-395/Route 9 Connector Study: MDOT Project Manager Charette, MDOT Project Manager Lindsey, Gannett Fleming Project Manager Plumpton and MDOT Chief Engineer Sweeney.
  - The Draft Environmental Impact Statement was signed by Commissioner Bernhardt on 3.07.12 within months of the date of these FOAA documents and we have no reason to doubt their integrity. I will once again offer several FOAA documents stating the rolling criteria design and another email from August 2011 stating the reduced right-of-way. The BDN article can be viewed at: <http://bangordailynews.com/2013/04/17/news/bangor/eddington-residents-learn-state-plans-rolling-rural-route-for-i-395route-9-connector/?ref=regionstate>
2. "It is important to note that the Draft Environmental Impact Statement (DEIS) contains the information pertaining to the project and is the current document of record."
  - I agree 100%—the DEIS should be viewed as the Connector Study Bible. However—if I can show one inaccurate statement within the DEIS, I would say that the whole document is then suspect; I can easily do that.
3. "As such, individual documents may not be the current correct information and represents a snapshot of that point in time."
  - Yes but the snapshot of that point in time may just be "following the conclusion of the NEPA process" and that is what has us worried—what is the end state design? Why is the end state design not included in the DEIS?
4. "To be clear, the proposed Right of Way for the project corridor is 200 feet (minimum). The design standard used for the evaluation of the 79+ alternatives considered in the process is the "Freeway" design standard as documented in the DEIS and continues to be the standard for environmental processing."
  - Then why did Commissioner Bernhardt and Chief Engineer Sweeney freely discuss the change in design criteria to rolling and the reduced right-of-way to 100 feet in an April 4<sup>th</sup>, 2013 conversation with Carol Woodcock?
5. "Comments received on the DEIS will be incorporated into the Final Environmental Impact Statement (FEIS). Any comments on the DEIS that were determined to be substantive require a response which will be included in the FEIS."
  - I will clearly show how our comments and concerns were treated.



**Gannett Fleming**

*Excellence Delivered As Promised*

000391

December 6, 2011

Ms. Judy Lindsey  
Maine Department of Transportation  
16 State House Station  
Augusta, ME 04333-0016

Re: Revised Cost Estimate for the Build Alternatives  
I-395 / Route 9 Transportation Study

Dear Judy:

Attached please find a copy of the latest cost estimate for the build alternatives retained for further consideration and detailed analysis for your review and consideration. We are working to complete both the property acquisition and utility relocation technical memoranda; the memoranda will reflect the costs shown in the attached estimates.

This cost estimate for the build alternatives was prepared using the DOT's freeway criteria. We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria. Developing the preferred alternative using rolling criteria would reduce the cost to construct it. Based on the DOT's experience with similar projects, we ask that the DOT let us know the anticipated percent reduction in cost that would result from this change in criteria; we will apply this percent reduction to the cost to construct the build alternatives that is shown in the DEIS/Section 404 Permit Application.

We appreciate the opportunity to be of service on this important study. Please contact either Dave Hamlet or myself if you have questions.

Sincerely,

Gannett Fleming, Inc.

A handwritten signature in black ink, appearing to read 'William M. Plumpton'.

William M. Plumpton, CEP  
Project Manager

WMP/  
Attachment

Pc: D. Hamlet  
File 048570

Gannett Fleming, Inc.

P.O. Box 67100 • Harrisburg, PA 17106-7100 | 207 Senate Avenue • Camp Hill, PA 17011-2316  
t: 717.763.7211 • f: 717.763.8150  
[www.gannettfleming.com](http://www.gannettfleming.com)

***Cost Estimate Summary for Range of Alternatives***

Alternative	Construction	Utility Relocation	Engineering & Inspection	Right of Way	Mitigation	Total
2B-2	\$ 75,491,276.60	\$ 1,578,100.00	\$ 12,078,600.00	\$ 4,084,912.41	\$ -	\$ 93,240,000.00
5A2B-2	\$ 97,629,921.84	\$ 3,130,600.00	\$ 15,620,780.00	\$ 5,205,118.05	\$ -	\$ 121,590,000.00
5B2B-2	\$ 79,879,364.36	\$ 9,345,600.00	\$ 12,780,700.00	\$ 9,659,718.99	\$ -	\$ 111,670,000.00

**Facts established in FOAA Documents #000391/000392:**

1. "This cost estimate for the build alternatives was prepared using the DOT's freeway criteria". The cost for 2B-2 is \$93,240,000.00.
2. "We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria."
3. "...we will apply this percent reduction to the cost to construct the build alternatives that is shown in the DEIS/Section 404 Permit Application."

**Estimated Construction Costs in the DEIS/March 2012:**

"The estimated construction costs of alternatives include the costs of preliminary engineering, construction engineering, utility relocation, acquisition of property for right-of-way, and mitigating environmental impacts. The costs of the build alternatives would range between approximately \$61 million and \$81 million (in 2011 dollars)". (DEIS pages S15-S18)

- The new rolling criteria design standard is not declared in the DEIS, however the anticipated lower cost is stated, giving the MDOT the advantage of presenting a lower price without presenting a redesign during the NEPA process.

**Question:**

"It is important to note that the Draft Environmental Impact Statement (DEIS) contains the information pertaining to the project and is the current document of record."

- If the DEIS is indeed the current document of record what is the basis then for the \$61 million cost stated in the DEIS when it is clear that the cost estimate of a freeway criteria designed 2B-2 is \$93,240,000 as substantiated in FOAA Document #000391/000392? That is a \$32,240,000 disparity that begs for an explanation.

000390

**Stewart, Jean**

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**From:** Plumpton, William M. <IMCEAEX-\_O=GANNETT+20FLEMING+2C+20INC+2E\_OU=GFNET\_CN=RECIPIENTS\_CN=WPLUMPTON@GFNET.com>  
**Sent:** Wednesday, December 07, 2011 9:51 AM  
**To:** Lindsey, Judy  
**Cc:** Hamlet, David A.  
**Subject:** I-395 - Route 9 study: revised cost estimate for the build alternatives  
**Attachments:** I-395 - Route 9 build alternatives revised cost estimate transmittal 120611.pdf; I395\_CostEstimate\_Dec2011-2lanes.xlsx

Judy:

Good morning. Attached please find two files for the DOT's review and consideration: an .xlsx file with the revised cost estimate for the build alternatives, and a .pdf file with our transmittal letter.

The cost estimates were revised with the recent changes in the design and our discussions – two-lane roads, two-lane ROW, two-lane bridges. We used the DOT's freeway criteria, with the exception of a reduced shoulder on bridges over 200 feet long. To help reduce both impacts and costs, we understand the DOT desires to advance the preferred alternative using rolling criteria once this study moves to project development. Please let us know the anticipated percent reduction in cost that would result from this change in criteria and we will apply that percent reduction to the build alternatives when describing them in the DEIS.

We are in the process of finishing both the property acquisition and utility relocation tech memos and will send this backup information to you in the coming days. Thanks. Bill.

**William M. Plumpton, CEP** | Environmental Planner  
**Gannett Fleming Inc** | P.O. Box 67100, Harrisburg, PA 17106-7100  
 t 717.763.7212 x2142 | c 717.756.1012 | [wplumpton@gfnet.com](mailto:wplumpton@gfnet.com)  
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- "To help reduce both impacts and costs, we understand the DOT desires to advance the preferred alternative using rolling criteria once this study moves to project development. Please let us know the anticipated percent reduction in cost that would result from this change in criteria and we will apply that percent reduction to the build alternatives when describing them in the DEIS."

## Design criteria according to MDOT answers to Senator Collins (1.17.12):

I first visited with Carol Woodcock on December 30<sup>th</sup> 2011. We have had a good working relationship since then with very strict parameters; we both agreed that Carol would be a conduit for me to raise questions and that she and Senator Collins would not get involved in the actual selection or support of any alternative. The questions below were part of a 41 question document sent to the MDOT; I was able to submit 107 questions and between those and the questions that Carol raised, she winnowed them down to 41. They were submitted to the MDOT on 1.09.12 and were received at the Senator's Office on 1.17.12.

The following is obviously just an excerpt of the original document:

1/17/2012

**Questions to Maine DOT  
Submitted January 9, 2012  
By Carol Woodcock  
Office of US Senator Susan Collins**

I have attached several documents that I will refer to in my questions. Of particular note, I'd like to point to a document prepared by MDOT, FHWA, and USACE of October 2003; "Rational for Alternatives Retained for Further Consideration February 2002" in which it clearly states that to improve regional system linkage, an alternative must provide a limited-access connection between 1-395 and Route 9 east of Route 46. It went further to state that "Alternatives that do not provide a limited access connection to Route 9 east of Route 46 would not provide a substantial improvement in regional mobility and connectivity and would negatively affect local access." This document has been the source of a number of questions that have been brought to my attention.

Most of the questions that I have raised here are regarding the process that MDOT and other agencies have followed in the past ten years.

38. *Will the proposed connecting route be built to interstate grade standards?*

No, the build alternatives would be controlled-access highways and were conceptually designed using the MaineDOT design criteria for freeways. Two lanes would be constructed and used for two-way travel within an appropriate 200-foot-wide right-of-way.

39. *Is this going to be designed as a four-lane, divided highway?*

No, the build alternatives would be controlled-access highways and were conceptually designed using the MaineDOT design criteria for freeways. Two lanes would be constructed and used for two-way travel within an appropriate 200-foot-wide right-of-way.

- MaineDOT design criteria for freeways stated in MDOT answers.

## Current design criteria and right-of-way in the DEIS/March 2012:

"Alternative 2B-2 would be a controlled-access highway and conceptually designed using the MaineDOT design criteria for freeways. Two lanes would be constructed and used for two-way travel within an approximate 200-foot-wide right-of-way. Route 9 would not be improved, and it would not provide high-speed, limited access connection to the east of East Eddington village. (DEIS Summary page S12)



FOAA Document #000177 (Excerpt) Draft DEIS status/Acceptance of the design criteria from Freeway to Rolling (12.29.11):

December 29, 2011

000177

To: File

From: Judy Lindsey

RE: I-395/ Route 9 Transportation Study Administrative Draft DEIS Status

On December 29, 2011 Bill Plumpton and I conducted a status conference call to discuss next steps for the Administrative Draft DEIS:

Procedural Steps

1. Meeting between Ken and Cheryl Martin to discuss Mark Hasselmann's comments on the Administrative Draft DEIS

- Mark's comment the 2-lane- 2-lane ROW Preferred Alternative does not satisfy the Purpose and Need (I disagree with this comment as the PA satisfies both the NEPA Purpose and Need as well as the Corps Basic Project Purpose, the agencies concur)
  - Acceptance of the design criteria from Freeway to Rolling to be advanced for the Preferred Alternative prior to the FEIS
  - Interstate Justification Report – June 2011 Major Studies Meeting Mark approved the 8 criteria for an IJR would be incorporated/discussed in the DEIS. The Administrative Draft DEIS was prepared based on this approval see Appendix Dec 22, 2011 comment – IJR must be a separate stand-alone document.
  - I Recommend the Biological Assessment be coordinated and prepared between the DEIS and FEIS.
  - Discussion of the Route 9 footprint and future needs, if any beyond reconfiguration of Route 9/46, prior to the Design year 2030
- 
- Note the Fact in the second bullet item: Acceptance of the design criteria from Freeway to Rolling to be advanced for the Preferred Alternative prior to the FEIS.
  - Prior to the FEIS is where we are today.
- 
- Did the first bullet item peak your interest? Standby.....



000431

MaineDOT

# Memo

To: I-395/Route 9 Transportation Study Project File  
From: Ken Sweeney, P. E. - Chief Engineer  
CC: Russell Charette, Project Manager  
Date: January 30, 2012  
Re: Planning Level Cost Estimates for the Alternatives 2B-2, 5A2B-2, 5B2B-2

The build alternatives have been designed as a two-lane road within a two-lane right-of-way using MaineDOT's criteria for freeways. The latest estimate to construct the build alternatives dated December 2011 range from approximately \$93 million for Alternative 2B-2 to \$122 million for Alternative 5A2B-2.

After reviewing the cost estimates for the build alternatives, the cost estimates should be reduced by one-third, for planning purposes moving forward. The basis for this one-third reduction includes, but is not limited to:

- Reducing the number of structures that need to meet 1.2 stream bankfull structure design would reduce structure costs.
- Using a rolling design, earthwork quantities would be reduced by approximately one-third
- Recognizing that lump sum items – drainage, signing and pavement marking, erosion and sedimentation control, maintenance and protection of traffic, and mobilization – were calculated as a percentage of construction, additional savings would be realized for these items
- Reducing the contingency percentage from 20% to 10%.
- Reducing the design engineering and construction engineering services, based on the type of construction, from 16% to 10%.

## FACTS established in FOAA Document #000431:

1. "The build alternatives have been designed as a two-lane road within a two-lane right-of-way using MaineDOT's criteria for freeways."
2. "The latest estimate to construct the build alternatives dated December 2011 range from approximately \$93 million for Alternative 2B-2 to \$122 million for Alternative 5A2B-2."
3. "After reviewing the cost estimates for the build alternatives, the cost estimates should be reduced by one-third, for planning purposes moving forward."

001143

**Bostwick, Richard**

**From:** Lindsey, Judy  
**Sent:** Monday, August 01, 2011 8:12 AM  
**To:** Bostwick, Richard  
**Subject:** RE: I-395 connector reduced width

Richard,

It's true, Ken decided the reduced lane and 100" to 125" ROW width was all we needed in the foreseeable future so why do more. I've been told this project will be taken to the Governor as one to move forward even though the price tag is up there. I hadn't notified anyone as I am waiting for the modification to be signed. Bill will be providing a new set of plans when available. I'll keep you in the loop.

Judy

JUDY LINDSEY

MAINE DEPARTMENT OF TRANSPORTATION

BUREAU OF TRANSPORTATION SYSTEMS PLANNING

16 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0016

(207) 624-3291

[JUDY.LINDSEY@MAINE.GOV](mailto:JUDY.LINDSEY@MAINE.GOV)

**From:** Bostwick, Richard  
**Sent:** Friday, July 29, 2011 1:47 PM  
**To:** Lindsey, Judy  
**Cc:** Ham, Eric  
**Subject:** I-395 connector

I have been told by Judy that Management wants to go with the 2 lane options for the I-395 Brewer to Eddington connector. We have been told that we only need Sect 7 consult on the 2 lane option. Will GF be evaluating the stream crossings and provide a revised length of crossing for the streams that they gave us 4 lane crossings for?

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Richard Bostwick  
 Supervisor of Field Services  
 MaineDOT -ENV

- Changes reducing the Right-of-Way width—could affect which properties would be taken, and how close someone may end up being to this roadway. It is possible to be as close as 50 feet from the C/L of the highway, abutting the right-of-way and not be considered impacted.
- As far back as 8.01.11, the MDOT knew about the reduced ROW, but even now in April 2013, the MDOT has not told the public and there was no mention of that fact in the 1.17.12 questions to Senator Collins.

## Visit with Carol Woodcock to discuss FOAA Documents (3.21.13):

Carol offered me the opportunity to submit a few questions through her to the MDOT; again she would act as the conduit. Since both the MDOT Project Manager and the FHWA Project Manager made it clear in December 2012 that they would no longer answer me via email—the Senator’s Office is really my only route of written discussion with the MDOT or the FHWA. The following email has the answers to my questions:

**From:** [Woodcock, Carol \(Collins\)](#)  
**Sent:** Monday, April 08, 2013 3:16 PM  
**To:** <mailto:bgradams@roadrunner.com>  
**Subject:** conversation with Dave Bernhardt and Ken Sweeney

Larry,

Here is a review of my Thursday meeting. Sorry for the delay but I’ve been extremely busy.

The first question I asked was about the rolling design and whether it was in the DEIS. I showed them the memo written by Ken. Ken remembered it very well.

Ken said it was in the appendix of the DEIS. We talked a little about the rolling design. They explained that Route 9 was rebuilt with the rolling design method – that’s why it is so curvy.

I asked about the cable dividers – they are still going to be included – and, yes, no passing. That was a question that had been raised previously.

I brought up the issue of reducing the right of way from 200 ft. to 100 ft. and the concerns that neighbors had with walking out their door and being so close to the fast-moving traffic. It took awhile for me to get this point across, but finally I did. They both explained that, even though the ROW is being reduced to 100 ft., they will enter into conversations with all affected landowners. There will be individual conversations because everyone will have different views/concerns about this situation. Some will be pleased to have their property not disturbed and others will want to leave the area because of the close proximity to the road. Each situation will be dealt with on an individual basis. So, if/when they get to that point in the process, individual landowners just need to make their desires very clear.

I raised the points about Mark Hasselmann writing comments as an “anonymous” poster on the NEPA forum. Commissioner Dave Bernhardt was unaware of this forum and was quite surprised to learn that this went on. Ken Sweeney was well aware of it and knew about the entire issue. They both weren’t troubled by his dissenting remarks because they said that his superior at FHWA had overruled him. Also, they added if this project ever goes to a Record of Decision, all of the agencies will have to comment again. So, if there are any concerns at all, they can be addressed once again at that point.

He has no idea if there will be funding for this project. The Record of Decision is at least a year away, if not longer.

I raised all the questions, but they had answers to all of them. I hope this is somewhat helpful to you.

Best,  
Carol

*Carol Woodcock*  
*State Office Representative to*  
*U.S. Senator Susan Collins*  
*202 Harlow St., Room 204*  
*Bangor, ME 04401*  
*Ph: (207) 945-0417*  
*Fx: (207) 990-4604*  
[Carol.Woodcock@collins.senate.gov](mailto:Carol.Woodcock@collins.senate.gov)

*To sign up for Senator Collins’ weekly e-newsletter, click [here](#).*

# What does Substantive Mean?

## ***Responses to Substantive Comments on the Draft Environmental Impact Statement***

### **What is a Substantive Comment?**

A substantive comment is one which suggests the modifications of an alternative, suggests the development and evaluation of an alternative not previously considered, supplements, improves or modifies analyses, or corrects a factual error.

### **40 CFR 1503.4: Response to Comments**

- A. An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:
1. Modify alternatives including the proposed action.
  2. Develop and evaluate alternatives not previously given serious consideration by the agency.
  3. Supplement, improve, or modify its analyses.
  4. Make factual corrections.
  5. Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.
- B. All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.
- C. If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (Sec. 1502.19). The entire document with a new cover sheet shall be filed as the final statement.

### **What is a Substantive Comment?**

A substantive comment is one which suggests the modifications of an alternative, suggests the development and evaluation of an alternative not previously considered, supplements, improves or modifies analyses, or corrects a factual error.

If you were educated in the 60's, you may remember diagramming and breaking down sentences in English class. I believe that what is substantive is really not as confusing as it may seem and I believe that the above statement can be further broken down to:

~~"A substantive comment is one which suggests the modifications of an alternative, suggests the development and evaluation of an alternative not previously considered, supplements, improves or modifies analyses, or corrects a factual error."~~

- A substantive comment is one which corrects a factual error. It is that simple.
- 40 CFR 1503.4.A.4: Possible responses are to: Make factual corrections.
- It is my opinion that the definition of substantive, used by the MDOT to evaluate comments and concerns to the DEIS and our Testimony at the Public Hearing, was too

restrictive and may not be in compliance with Transportation Policy and Maine Statute per Section 73.3.G: <http://www.mainelegislature.org/legis/statutes/23/title23sec73.html>

## Title 23: HIGHWAYS

### Part 1: STATE HIGHWAY LAW

#### Chapter 3: OFFICIALS AND THEIR DUTIES

##### Subchapter 1: DEPARTMENT OF TRANSPORTATION

###### §73. Transportation policy

1. Short title. This section may be known and cited as the "Sensible Transportation Policy Act."
  2. Purposes and findings. (Excerpt) The people further find that the decisions of state agencies regarding transportation needs and facilities are often made in isolation, without sufficient comprehensive planning and opportunity for meaningful public input and guidance.
  3. Transportation policy. It is the policy of the State that transportation planning decisions, capital investment decisions and project decisions must: G. Incorporate a public participation process in which local governmental bodies and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions and project decisions. The department and the Maine Turnpike Authority shall take the comments and concerns of local citizens into account and must be responsive to them.
- It is my opinion that the information, originally considered not substantive on pages 13-15, is indeed substantive—since it directly contradicts the facts as now presented in the DEIS—that’s a factual error. I also believe that every one of our comments and concerns should have been answered per the above Maine Statute; isn’t that what “must be responsive to them” means?

#### American Association of State Highway and Transportation Officials (AASHTO):


“Substantive vs. Non-Substantive Comments. The general rule under the CEQ regulations is that an FEIS must respond to all “substantive” comments on a DEIS. The CEQ regulations and guidance do not define the term “substantive,” nor is there any definition of this term in FHWA or FTA regulations or guidance. The National Park Service issued guidance stating that a comment is considered substantive if it raises specific issues or concerns regarding the project or the study process, but not if it merely expresses support for or opposition to the project or a particular alternative. FHWA generally follows a similar approach when determining which comments are substantive.”  
<http://environment.transportation.org/pdf/programs/PG02.pdf>

- Substantive: if it raises specific issues or concerns regarding the project or the study process.
  - Not substantive: if it merely expresses support for or opposition to the project or a particular alternative.
- Substantive Comments: <http://www.eddingtonmaine.gov/wp-content/uploads/2012/11/I-395-Route-9-Trans-Study-Responses-to-Substantive-Comments-DEIS-11-8-12.pdf>

## The importance of what was considered not substantive:

What the consultant considered not substantive is extremely important. Over 9 years of prior history of this Study has been buried—the MDOT has successfully muted public opposition. MDOT has not been responsive to my comments and concerns.

This MDOT matrix was included in my DEIS questions and not considered substantive. Wouldn't one think that an official MDOT fact sheet indicating that alternative 2B-2 only met 20% of the Purposes and Needs in April 2009 would be of some importance and mandate clarification on how the MDOT was able to transform that same alternative to meet 100% of the Purpose and Needs in less than a year and a half?

*I-395/Route 9 Transportation Study*  
PAC Meeting April 15, 2009 

**Purpose and Needs Matrix**

Alternatives	Meets Purpose		Meets Needs		
	Study Purpose	USACE Purpose	System Linkage	Safety Concerns	Traffic Congestion
No-Build	No	No	No	No	No
Alternative 1-Upgrade	No	No	No	No	No
2B-2	No	No	No	Yes	No
3A-3EIK-1	Yes	Yes	Yes	Yes	Yes
3EIK-2	Yes	Yes	Yes	Yes	Yes
5A2E3K	Yes	Yes	Yes	Yes	Yes
5A2E3K-1	No	No	No	Yes	No
5A2E3K-2	Yes	Yes	Yes	Yes	Yes
5B2E3K-1	Yes	Yes	Yes	Yes	Yes

[www.i395-rt9-study.com](http://www.i395-rt9-study.com)

Alternative 2B-2 is almost identical to the original alternative 2B that was removed from further consideration before the January 2003 PAC meeting. It was removed for specific reasons as stated in this MDOT/FHWA/ACOE document dated October 2003: <http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (Pages: ii/iii/5/20/21 referenced below.)

Highly negative statements within this official document do not support the MDOT selection of 2B-2 and in fact bring many of us to question why the MDOT would even think of selecting 2B-2 as their preferred alternative. But those statements are now buried in the back of the book "...bunch them together...we avoid drawing unnecessary attention to them."

### Excerpt from FOAA Document #000251 (9.27.12):

For Mr. Adams submissions that did not provide substantive comments according to the regulation, we suggest not deleting them as suggested but bunch them together and number them as Mr. Adams had done (e.g., Larry Adams no. 1-14). This way the submissions are acknowledged as received and reviewed and we avoid drawing unnecessary attention to them.



The vast majority of studied alternatives met the System Linkage Need as follows: To meet the need of improved regional system linkage while minimizing impacts to people, it was determined that an alternative must provide a limited-access connection between I-395 and Route 9 east of Route 46. (Page 5)

- Alternative 2B-2 is 4.2 miles west of the original System Linkage Need criteria.
- Alternatives that do not provide a limited access connection to Route 9 east of Route 46 would not be practicable because that would not provide a substantial improvement in regional mobility and connectivity and would negatively affect people living along Route 9 in the study area.
- Alternatives that would connect to Route 9 west of Route 46 would severely impact local communities along Route 9 between proposed alternative connection points and Route 46.

Prior to the eleventh PAC meeting on February 20, 2002, the system linkage need was examined in greater detail to further aid in reducing the number of preliminary alternatives. To meet the need of improved regional system linkage while minimizing impacts to people, it was determined that an alternative must provide a limited-access connection between I-395 and Route 9 east of Route 46. Alternatives that do not provide a limited access connection to Route 9 east of Route 46 would not be practicable because that would not provide a substantial improvement in regional mobility and connectivity and would negatively affect people living along Route 9 in the study area. Alternatives that would connect to Route 9 west of Route 46 would severely impact local communities along Route 9 between proposed alternative connection points and Route 46. Alternatives providing a direct connection between I-395 and Route 9 east of Route 46 will provide improved regional connections between the Canadian Maritime Provinces and the Bangor region and reduce traffic on other roadways. Such alternatives meet the intent of the East-West Highway Initiative.

- Any mention of the original System Linkage Needs in my DEIS questions has been buried in the back of the book, and not commented on by the MDOT. "...bunch them together...we avoid drawing unnecessary attention to them."

#### Alternative 2B

This alternative would not be practicable because it would fail to meet the system linkage need, and would fail to adequately address the traffic congestion needs in the study area.

Alternative 2B would use approximately 5 miles of Route 9. Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards.

Additionally, this alternative would result in:

- substantially greater proximity impacts (residences within 500 feet of the proposed roadway) in comparison to Alternative 3EIK-2 (200 residences v. 12 residences).



## F. ALTERNATIVE 2B

This alternative is one of the original 45 alternatives. It is described in section III-2-b-(2).

Alternative 2B was dismissed at PAC Meeting #11 on February 20, 2002 because MDOT and FHWA thought, as a condition of the Record of Decision, or the Section 404 permit, or both, for the existing section of I-395, additional impacts to Felts Brook would not be permitted and therefore this alternative was not 'practicable' under the law.

At the fourth interagency meeting on March 12, 2002, the agencies stated that the permit for the existing section of I-395 was not conditioned to prevent further impacts to Felts Brook, and that Alternative 2B should be considered practicable under the law and should continue to be evaluated.

Alternative 2B was dismissed prior to PAC Meeting #16 on January 15, 2003 because it would inadequately address the system linkage and traffic congestion needs. This alternative would not be practicable because it would fail to meet the system linkage need of providing a limited access connection between I-395 and Route 9 east of Route 46. MDOT projects that the future level of service (LOS) for this section of Route 9 resulting from this alternative would be "D" — LOS D is where traffic starts to break down between stable and unstable flow and can become a safety concern in areas of level topography, vehicle mix, and fluctuating speeds. Future traffic volume (year 2030 no-build average annual daily traffic) would be approximately 8,800 vehicles.

Limited opportunities exist to control access management on this section of Route 9 from local roads and driveways. There are ten local roads and 148 existing drives or access points to undeveloped lots. Assuming 10 trip ends per drive and an equal number of left and right turns, Alternative 2B's ability to satisfy the system linkage and traffic congestions needs is questionable. There are several hundred acres that can be developed along this section of Route 9. Additionally, 200 buildings (residential and commercial) would be located in proximity (within 500 feet) of the proposed roadway.

The lack of existing access controls and the inability to effectively manage access along this section of Route 9, and the number of left turns, contribute to the poor LOS and safety concerns, and the inability of Alternative 2B to satisfy the system linkage purpose and need effectively.

- Alternative 2B would fail to meet the system linkage need, and would fail to adequately address the traffic congestion needs in the study area. Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards. (Page ii)
- Limited opportunities exist to control access management on this section of Route 9 from local roads and driveways. There are ten local roads and 148 existing drives or access points to undeveloped lots. Assuming 10 trip ends per drive and an equal number of left and right turns, Alternative 2B's ability to satisfy the system linkage and traffic congestions needs is questionable. There are several hundred acres that can be developed along this section of Route 9. (Page 20/21)
- Over 9 years of prior history of this Study has been buried in the back of the book with no further comment necessary. The MDOT has not been responsive to our comments and concerns.

# What happened to the east of Route 46 requirement? Excerpt from FOAA Document #000394 (1.20.12):

I-395/Route 9 Study – Summary of Meeting to Discuss Chapter 1 & 2 Comments  
January 20, 2012

000394

- Mark Hasselmann's and Cheryl Martin's Comments
  - Page 31 - The logical termini of the build alternatives needs to be in Chapter 1. The logical termini of the build alternatives were identified and defined to consist of (1) I-395 near Route 1A and (2) the portion of Route 9 in the study area to satisfy the project purpose and need. The NOI stated that the project would take place Route 395 to Route 9 in Clifton from the west to east through Eddington, but did not use the term "logical termini." MaineDOT will check with Cheryl to clarify the comment.
- Since the Notice of Intent (NOI) did not use the term "logical termini" they apparently felt that they could go ahead and redefine it.  
<http://www.i395-rt9-study.com/Pubs/05-23529.pdf>
- The northern termini was identified as "(2) the portion of Route 9 in the study area to satisfy the project purpose and need" per bulleted text.
- The logical termini of the project was identified and defined as (1) I-395 near Route 1A and (2) the portion of Route 9 in the study area. (DEIS s3)

System Linkage Needs went from: "must provide a limited-access connection between I-395 and Route 9 east of Route 46 in an October 2003 MDOT/FHWA/ACOE Technical Memorandum to: "the portion of Route 9 in the study area" in the DEIS of 2012. The vast majority of the 70+ alternatives studied over 13 years met the east of 46 criteria.

To show how ridiculous the northern logical termini definition is, look at the study area map and you can see that Route 9 within the study area is anywhere from east of the Eddington/Clifton border all the way west to about the Brewer Shopping Center on North Main Street. That is how you make an unviable alternative such as 2B-2 viable!

## Questions:

1. I am confused and wonder why the MDOT found it necessary to reiterate the freeway design standard and the 200 feet right-of-way once again in the DEIS.
2. Are we wrong with our assumptions of the FOAA Documents and we don't know what we think we know?
3. Is the MDOT ready to sign an affidavit that this connector will be a freeway design on a 200' minimum footprint in the end state?
4. Will MDOT give us a full accounting of this project? It is their obligation to do so.

Since the email on page 10 also alludes to an issue with Mr. Hasselmann stating that the preferred alternative did not meet the Purpose and Needs and the issue shows up on a page 7 bullet item, I have included the following information that I think is a huge revelation:

- The following email string, page 17 thru 23, describes the fact that Mark Hasselmann, another major player in this study—FHWA Right of Way Program Manager—had doubts and concerns that the 2B-2/preferred alternative did not meet the Purpose and Needs of this Study. Read the NEPA forum on pages 18 and 19 and you will see that one responder had doubts that this project was even the same project any more.
- Please read the complete email string from page 17 thru 23; it is self-explanatory.

Excerpt from FOAA Document #000131/see page 20 for the complete FOAA Document:

On December 13, 2011 Mark Hasselmann contacted me to discuss the I-395/Route 9 Administrative Draft DEIS. Most of his comments were routine although two require further joint MaineDOT/FHWA discussion:

1) What are the long and short term needs of Route 9?

If there are needs not discussed in the AD DEIS there is a big piece of the documentation missing.

If there are any Route 9 improvements required in the next 5 years they are considered as indirect impacts as such he questioned the identification of the logical termini.

2) Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative will alter the impacts and prior alternatives analyses is not comparable (apples to apples) as those were done with 4-lanes/4-lane ROW. Mark stated he "expects to discuss this issue in the near future".

FOAA Document #000128 Notes to File (12.19.11):

000128

Stewart, Jean

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**From:** Lindsey, Judy  
**Sent:** Monday, December 19, 2011 8:28 AM  
**To:** Thomson, Herb  
**Cc:** Sweeney, Ken; Charette, Russ  
**Subject:** I-395/Route 9 Notes to File: December 13 Administrative Draft DEIS coordination with Mark Hasselmann and the Re:NEPA posting of December 14.  
**Attachments:** 2011 Dec 14 ReNEPA\_psoting\_NEPA\_analysis\_footprint\_change.docx;  
2011 Dec 19\_jel\_Herb\_Ken\_email\_ReNEPA\_footprint\_change.doc

Herb,

As requested, attached are my Notes to the File of the phone conversation I had with Mark Hasselmann concerning the I-395/Route 9 Transportation Study Administrative Draft DEIS and a copy of the December 14 anonymous Re:NEPA posting concerning a footprint change.

Judy

[Home](#) > [NEPA Process and Documentation](#)  
[>Discussion](#)

**NEPA analysis w/ footprint change**

12/14/2011 03:29 PM

We are preparing an EIS and are currently reviewing the administrative draft of the DEIS. For the last five years we analyzed impacts for many (too!) five to ten mile long, new alignment, 250' ROW, controlled access, build alternatives. We have even identified a 'preferred alternative', with the caveats that go with that. Two lanes would be constructed initially, as a "super 2", one barrel of the four-lane version and reserve the remaining ROW, building out the other two lanes when needed.

We are just now considering a much reduced footprint to around 100' ROW and to a lower standard, a two-lane arterial, rural rolling to reduce costs.

With this proposed reduction in footprint, what happens now? We most certainly need to revise the admin draft to some extent given this change, at least the impact analysis as impacts will be substantially reduced, in some cases by more than one-half. Do we revisit any previous alternatives that were dismissed (not being carried forward for further consideration)? Do we need to step/look back? How far?

Thoughts on this one? Examples?

[\[Post a Reply\]](#)[\[Back to Top\]](#)

**Re: NEPA analysis w/ footprint change**

12/15/2011 01:08 PM

Sounds like you may need to do a Supplemental EIS, but I suggest you start with looking at 23 CFR 771.130 and make that determination (this would be FHWA's determination. I am not sure if you are with FHWA, a state DOT, or a consultant. If you are not with FHWA, consult with them regarding this determination). At least a re-evaluation is needed, per 771.129(a) if, as stated, the Draft EIS is five years old and there has been no Final EIS.

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**Re: NEPA analysis w/ footprint change**

12/15/2011 01:10 PM

Did the project get scaled back from an expected 4-lane improvement to a "Super 2-lane" because it now has been determined that the 2-lane adequately accommodates future traffic? If so, I think you most definitely need to step back and review your Purpose and Need statement and decide if the P&N for the project has changed. For example, did you eliminate OTHER 2-lane alternatives from consideration for traffic reasons, but now they could be viable alternatives? If so, those should have probably been covered in the EIS.

[\[Post a Reply\]](#)[\[Back to Top\]](#)

**Re: NEPA analysis w/ footprint change**

12/15/2011 01:12 PM

This appears to be a good problem. Developing an alternative that requires a simple reduction of the footprint from an existing alternative, is much easier than developing an alternative that doubles the footprint. As long as the reduced version fits the P&N, you're good!

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[NEPA analysis w/ footprint change <](#)

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[Re: NEPA analysis w/ footprint change](#)

[Re: NEPA analysis w/ footprint change](#)

[Re: NEPA analysis w/ footprint change](#)

000130

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Re: NEPA analysis w/ footprint change

FHWA Division Office

12/15/2011 01:24 PM

The project being proposed now is very different than what was originally proposed - it is practically a new project. Has the Purpose and Need changed for the project (would seem like it would have to for the reduced roadway to be acceptable)? If so, you would definitely need to look at your alternatives analysis again based on the revised needs. And as you said, the impacts would have to be revised. You may want to hold a new public meeting (not quite scoping, since the areas of concern would be the same). Sounds like almost a complete rewrite of the EIS.

Another option would be to do a combined PEL (Planning Environmental Linkage) and EIS document. The larger project would be the planning portion (what you would like to do), and the reduced template would be the EIS (what you are actually going to do based on funding). This would require that you identify BOTH the overall impacts (which you already have) and the impacts of the reduced project. Still have to do most of what I described above and add a lot of discussion to the PEL/EIS to clarify what is happening, but you wouldn't have to throw out the work that is already done.

[\[Post a Reply\]](#)[\[Back to Top\]](#)

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Re: NEPA analysis w/ footprint change

12/15/2011 02:19 PM

I think we really need to understand why the project scope is changing. If it's solely to address planning fiscal constraint requirements and not because of a change in needs for the proposed project, it may not be in the best interest of NEPA to just study the limited footprint in the environmental document. If it is just a fiscal constraint issue, there may be ways to handle this requirement, depending on the project situation, without jeopardizing NEPA compliance.

- Does the question: NEPA analysis w/footprint change and the five responses raise a little doubt in your mind if this is still the same project and with all the changes applicable only to alternative 2B-2 was this selection process fair and within NEPA compliance?
- Note the 100 foot reduced footprint and the lower standard to rural rolling mentioned in the question. It should be noted that only M.H. can tell us if he was the anonymous poster, yet if you read the following documents, you will find that apparently J.L. thought he was.
- Does having a different end state design already on the books, than the design declared in the DEIS during the NEPA process, invalidate the NEPA process?
- The 1:24 pm responder says that this is practically a new project. The 2:19 pm responder worries about jeopardizing NEPA compliance.
- Is the I-395/Route 9 Connector Study within NEPA compliance? Where can we get an independent verification whether it is or is not?

000131

December 16, 2011

To: Herb Thomson and Ken Sweeney  
From: Judy Lindsey

RE: I-395/Route 9 December 14, 2011 Re:NEPA posting "NEPA analysis w/ footprint change"

On December 13, 2011 Mark Hasselmann contacted me to discuss the I-395/Route 9 Administrative Draft DEIS. Most of his comments were routine although two require further joint MaineDOT/FHWA discussion:

1) What are the long and short term needs of Route 9?

If there are needs not discussed in the AD DEIS there is a big piece of the documentation missing.

If there are any Route 9 improvements required in the next 5 years they are considered as indirect impacts as such he questioned the identification of the logical termini.

2) Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative will alter the impacts and prior alternatives analyses is not comparable (apples to apples) as those were done with 4-lanes/4-lane ROW. Mark stated he "expects to discuss this issue in the near future".

I explained to Mark a) the Preferred Alternative's final design criteria of 2-lane/2-lane ROW will avoid and minimize impacts; b) the impact analyses are comparable as they utilize the same design criteria for all alternatives; c) a statement is included in the DEIS concerning the reduced final design criteria. (My afterthought, the present option(s) satisfies the Purpose and Need.)

Mark said he expects to discuss the footprint/impacts issue in the near future. My understanding was a meeting will be arranged to discuss these issues.

Coincidentally on December 14 the following was an anonymous posting to the FHWA Re:NEPA forum -

"NEPA analysis w/ footprint change

12/14/2011 03:29 PM

We are preparing an EIS and are currently reviewing the administrative draft of the DEIS. For the last five years we analyzed impacts for many (too!) five to ten mile long, new alignment, 250' ROW, controlled access, build alternatives. We have even identified a 'preferred alternative', with the caveats that go with that. Two lanes would be constructed initially, as a "super 2", one barrel of the four-lane version and reserve the remaining ROW, building out the other two lanes when needed.

We are just now considering a much reduced footprint to around 100' ROW and to a lower standard, a two-lane arterial, rural rolling to reduce costs.



000132

With this proposed reduction in footprint, what happens now? We most certainly need to revise the admin draft to some extent given this change, at least the impact analysis, as impacts will be substantially reduced, in some cases by more than one-half. Do we revisit any previous alternatives that were dismissed (not being carried forward for further consideration)? Do we need to step/look back? How far? Thoughts on this one? Examples?"

The posting includes information unusually similar to my earlier I-395/Route 9 DEIS discussion.

My Comments/Thoughts on my telephone discussion with Mark and the Re:NEPA posting:

- A) The "apples to orange" comment is the last minute. We discussed the reduced footprint design change at the October interagency prior to everyone concurring with the preferred alternative. Mark did not say anything during or immediately after the meeting about the reduced footprint. One question: why is 2-lane/2-lane ROW footprint an issue when no concern was expressed on the reduction to the 2-lane/4-lane ROW footprint.
- B) The Preferred Alternative still satisfies the purpose and needs, one could argue that we have simply made changes to further avoid and minimize impacts while considering improved affordability.
- C) FHWA, as well as the Cooperating Agencies, have reviewed and commented on over 80% of the administrative draft DEIS the impact area has not been altered as the alternatives reduced footprint are in the same location.
- D) The MaineDOT/FHWA Partnership agreement states we will NOT answer shop.
- E) One ReNEPA commenter cited 23 CFR 771.130 concerning the need for a Supplemental EIS  
Section (2)(b)(1) states a Supplemental may not be necessary where:  
(1) The changes to the proposed action, new information, or new circumstances result in a "lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS".  
The underlined phrase is pertinent to this project. Considering this citation it is my opinion supplementing the DEIS is not required.

I recommend we have a meeting with Cheryl and Mark to discuss his comments to me and the Re:NEPA posting.



December 29, 2011

000177

To: File

From: Judy Lindsey

RE: I-395/ Route 9 Transportation Study Administrative Draft DEIS Status

On December 29, 2011 Bill Plumpton and I conducted a status conference call to discuss next steps for the Administrative Draft DEIS:

Procedural Steps

1. Meeting between Ken and Cheryl Martin to discuss Mark Hasselmann's comments on the Administrative Draft DEIS
  - Mark's comment the 2-lane- 2-lane ROW Preferred Alternative does not satisfy the Purpose and Need (I disagree with this comment as the PA satisfies both the NEPA Purpose and Need as well as the Corps Basic Project Purpose, the agencies concur)
  - Acceptance of the design criteria from Freeway to Rolling to be advanced for the Preferred Alternative prior to the FEIS
  - Interstate Justification Report – June 2011 Major Studies Meeting Mark approved the 8 criteria for an IJR would be incorporated/discussed in the DEIS. The Administrative Draft DEIS was prepared based on this approval see Appendix Dec 22, 2011 comment – IJR must be a separate stand-alone document.
  - I Recommend the Biological Assessment be coordinated and prepared between the DEIS and FEIS.
  - Discussion of the Route 9 footprint and future needs, if any beyond reconfiguration of Route 9/46, prior to the Design year 2030

Discussion items

2. DOT/FHWA needs to come to an agreement on Project Definition
3. Adding discussion on the EA to EIS elevation in the summary duplicates discussion in Chapters 1 and 3; is there value added to discuss in Summary?
4. Purpose and Need
5. Did Mark H completely review the AD DEIS a number of his comments in Chapter 1 and 2 are responded to in Appendices C,D and E. In addition, many are new comments not presented in prior reviews of the DEIS, see file notes from MH.
6. Down-scoping from 2-lanes/2-lane ROW – All alternatives have been analyzed with the same criteria (apples to apples) Mark has stated as the alternative will move forward as a 2-lane/2-lane the analysis is now apples to oranges comparison.
  - a. I disagree the alternative analysis for all 70+ alternatives have been conducted with the same footprint and criteria. Between the DEIS and the FEIS the design and analysis for the Preferred Alternative will be advance to reduce/minimize impacts by reducing the design criteria from

freeway/interstate standards to rolling rural standards similar to existing Route 9.

7. Design year: the design year of 2030 has been used to analyze all traffic impacts during the preparation of the EIS analysis whether to retain the 2030 design year was discussed with Mike Morgan. We discussed if there was a need to revise the traffic analysis to 2035 or if there was potential for substantial change to the present/future traffic numbers or mix. Mike stated if anything he anticipated the numbers may reduce based on gas prices and people's present habits of driving less. I also spoke with Ed Hanscom he also supported the use of a 2030 Design year for I-395 and he relayed that Wiscasset utilized a design year of 2025.
8. Not including cost information in the DEIS but have anticipated cost at the public hearing.

Wende Mahaney, USFWS comments

All of Wende's comments/changes are "great and add value" to the DEIS. She identified problems then provides a solution.

Need to discuss with Wende how to edit page 91, Exhibit 3.13, Summary Table of Wetlands to make it more useful keeping in mind MaineDOT has not performed a wetlands functional assessment.

Richard Bostwick comments

Richard needs to rewrite notes for clarity some of his handwriting is difficult to read.

Pg 77 if species have not been listed they should not receive expanded review in DEIS

Pg 79 what is Richard's expectation?

EFH – agencies will provide comments during Comment period – address in FEIS

RBs comments on mitigation should be discussed with the appropriate in-house staff, as Mitigation is the responsibility of the Environmental Office. A reminder email request was sent to Deane Van Dusen on December 29.

Jay Clement – critical path awaiting the Corps comments on the AD DEIS an email reminder was sent to Jay on December 29.

I vehemently disagree with item 6.a. on page 22—that is a complete misrepresentation of fact; note once again the reference to rolling rural standards. Read the following:

MaineDOT Interagency Meeting  
October 11, 2011

<http://www.i395-rt9-study.com/Pubs/EIS%2010-11-11c.pdf>

Bill Plumpton: Last time we met, December 2010,

Page 2 of the handout – Design criteria has been consistent throughout the years with one exception, that is, the shoulder width has been reduced from 10' to 8'. Roadway is designed to freeway criteria – 70 mph design speed, posted for 55 mph. The proposed Typical Section is two - 12' travel lanes, 8' shoulders, with standard cut and fill treatments. Change made to typical section since our last meeting, the project considered having two lanes of highway constructed within right-of-way sufficient to accommodate four lanes in the future. That has now changed to two lanes of highway within right-of-way that accommodates two lanes but does not accommodate four lane construction in the future.

## I-395/Route 9 Transportation Study - April, 2012

*(key milestones/points are highlighted)*

### Resulting Range of Reasonable Alternatives Retained for Further Consideration

**December 2010** – MaineDOT, FHWA and the cooperating agencies identified four alignments for final consideration. All build alternatives would be controlled-access two-lane highways within a right of way width of about 200 feet:

- No-Build Alternative
- Alternative 2B-2
- Alternative 5A2B-2
- Alternative 5B2B-2

- If only three alternatives remain in consideration in December 2010 and the Project Manager of Gannett Fleming says last time we met was December 2010 before announcing a new downgraded design in October of 2011 that is applicable to only 3 of the 70+ alternatives—how can one say the alternative analysis for all 70+ alternatives has been conducted with the same footprint and criteria?
- And now it will only be the 2B-2 alternative that gets the downgraded rolling design criteria with a reduced footprint. How about all the other 70+ alternatives?
- I concur with Mr. Hasselmann's apples to oranges observation.

An unviable, deficient and impractical alternative was selected in complete isolation outside of public scrutiny without sufficient comprehensive planning and the opportunity for meaningful public input and guidance.

Limited State/Federal tax dollars need to be spent wisely repairing the existing infrastructure, not on this I-395/Route 9 Connector project. The MDOT/FHWA chosen 2B-2/preferred alternative met only one (20%) out of the five Purpose & Needs in April 2009; the December 2011 revelation from Mr. Hasselmann, the FHWA Liaison to this study, indicates that he also didn't believe that 2B-2 met the Purposes and Needs.

In this current fiscal environment, adding more miles to the State's transportation system without adequately maintaining the existing infrastructure doesn't make sense.

Please support the NO-BUILD option for the I-395/Route 9 Connector.

Thank you for your time and consideration, Larry Adams