

I-395/Route 9 Transportation Study Lack of Transparency/PIP/E-W Highway/FOAA

Larry Adams

5/17/2013 12:26 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: Eddington Board of Selectman and Town Manager; Brewer City Council; Mayor Jerry W. Goss; Councilor Kevin O'Connell; Representative Arthur Verow - District#21; Brewer City Manager;



Good afternoon to all:

The attached document speaks to the lack of transparency in this project and addresses Transportation Policy per State Statute and the MDOT Public Involvement Plan.

I have added two more of my questions to the DEIS; the first question is actually an email I sent to the MDOT Project Manager (J.L.) requesting a project update and as you can see the response was actually non-responsive. The project had been radically changed in Sept/Dec 2010 and this information was withheld from me on March 02, 2011 and not one State official to date has even mentioned how that could happen, let alone apologize for her actions.

I added a second question to the DEIS where I addressed the proposed private East-West Highway; this time there were three comments marked as substantive, but they weren't really answered.

The original System Linkage Need, as stated in the Oct2003 Technical Memorandum, specified the "intent" of the East-West Highway. Compare the original "intent" in the Oct2003 documents to FOAA Document #000365 dated 1.13.12: "Minimize the discussion of the alternatives connection with the concept of an East West Highway."

The last subject in this document is the Freedom of Access Act (FOAA). Someone needs to tell me why we need to file a FOAA request to get information that the MDOT should be divulging freely.


Thank you for your time and consideration,

Larry Adams

Lack of Transparency, Transportation Policy,
Public Involvement Plan, East-West Highway(s)
The Maine Freedom of Access Act (FOAA):

There's been a lot of news lately about the Private East/West Highway due to multiple bills facing the Maine 126th Legislature; many people are concerned with the perceived lack of transparency surrounding the project.

We left the 4.15.09 PAC meeting with full knowledge that the 2B-2 alternative only met 1 (20%) of the 5 Purpose and Needs. By Sept. 2010, with absolutely zero transparency and public scrutiny, the five alternatives below meeting 100% of the Purpose and Needs—including the 3EIK-2/preferred alternative—were removed from further consideration—leaving only 2B-2 and 5A2E3K-1 (renamed 5A2B-2, also meeting only 20% of Purpose and Needs) in consideration. This critical information was withheld from the impacted communities until the Bangor Daily News broke the story on 1.06.12; YES—I fully understand the frustration over the lack of transparency.

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/Pubs/PAC041509_handouts.pdf

- Another Example of MDOT's Lack of Transparency:

Attachment: Comments and Public Meeting Transcripts

DEIS Comment/Question #6. Submitted by: Larry Adams, a Brewer resident, on April 13, 2012. Was it appropriate for the MaineDOT Project Manager to withhold information from an impacted private citizen when news from September and December 2010 already had changed the study outcome? Where is the honesty and transparency? Can you gentleman not grasp why I have exhibited no trust in the Study Group?

Page 1 of 1

Larry Adams

From: "Lindsey, Judy" <Judy.Lindsey@maine.gov>
To: "Larry Adams" <bgradams@roadrunner.com>
Sent: Wednesday, March 02, 2011 3:54 PM
Subject: RE: Study Update - I-395/Route 9
Larry,

I know it has been a long year. During this time MaineDOT has been meeting with the Corps of Engineers (Corps), Environmental Protection Agency (EPA), and U.S. Fish and Wildlife Service (FWS) to identify the range of alternatives that will be fully analyzed in the Draft Environmental Impact Statement (DEIS). The intent is, if possible, reduce the number of alternatives to be analyzed in the DEIS by dismissing those that would not be permitable or other alternatives have fewer impacts but achieve similar results. This coordination will be completed by this Spring so we can prepare the DEIS for distribution for public comment.

My expectation is late Spring or Summer we will hold an Advisory Committee meeting to discuss everything that has occurred since our last meeting. Please contact me if you have any other questions on the study.

Judy Lindsey
Project Manager

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

From: Larry Adams [mailto:bgradams@roadrunner.com]
Sent: Wednesday, March 02, 2011 12:06 PM
To: Lindsey, Judy
Subject: Study Update

Two of the proposals are in my backyard. We have not had an update in this matter in well over a year. What is the current status of this study?

Thanks, Larry Adams
17 Woodridge Rd. Brewer

3/16/2012

- Not one MDOT official has come forward to explain Manager Lindsey's actions; apparently withholding critical information from an impacted private citizen must be accepted practice. Nothing substantive—will be buried in the back of the FEIS.

Maine Statute/Transportation Policy:

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.

- The MDOT has failed miserably to keep the public and the governing bodies of the impacted communities involved in the decision-making-process, a process defined in State Statute and the MDOT's own Public Involvement Plan.
- Public Involvement is not just a suggestion – it is the LAW.

Reconcile the following comments with §73. Transportation policy:

- Withholding critical information from an impacted private citizen as was the case with my 3.02.11 email exchange with the Project Manager when I simply requested the current status. Was that within policy?
- The MDOT requested that the public submit their concerns and questions to the Draft Environmental Impact Statement and provide Testimony at the Public Hearing that they should/must have known would not pass the substantive test since nowhere on the official I-395/Route 9 Connector web site was there any description of what would be considered substantive. These many state and federal agencies know that the public is at a disadvantage because they do not know the regulations and that allows these agencies to essentially hide behind those same regulations.
- Holding an open house that was off-the-record and then sitting mute at the recorded Public Hearing—refusing to answer the simplest of questions.
- Refusal of MDOT management to continue communicating with me via email since early December 2012. FHWA followed suit in mid-December 2012.
- Continued refusal to let elected governing officials of the impacted communities partake in the decision making efforts of this project.
- “There was a lot of information included in a recent news article, some of which may be miss-leading..” (MDOT 4.19.12) What is misleading is the lack of transparency exhibited by the MDOT/FHWA throughout this project study and the lack of involvement with the local governing bodies and the public in a real public participation process per state statute.
- The Public Advisory Committee has not been paneled since 4.15.2009.

Executive Summary

MaineDOT Public Involvement Plan

MaineDOT's approach to public involvement is based on the principle that everyone who uses Maine's transportation system is a customer. High-quality public participation can only be carried out when customers are identified and brought into the planning process early and then kept involved throughout all phases of transportation decision-making.

SECTION 1: INTRODUCTION

The Maine Department of Transportation's (MaineDOT) Public Involvement Plan (Plan) is based upon the principle that everyone who uses Maine's public transportation system is a customer. Therefore, they must be invited and encouraged to participate in the transportation planning and implementation processes early, regularly and continuously.

MaineDOT Statement of Commitment

MaineDOT is committed to informing the public and providing early, significant and ongoing opportunities for the public to participate in the development of the Department's policies, studies, plans, programs and projects from their initial inception through implementation, including operations and maintenance activities. To this end, MaineDOT will work with partner agencies, interest groups and the general public to ensure that its decision-making processes are as transparent as is possible.

<http://www.maine.gov/mdot/pip/documents/PIPV3%20march042010.pdf>

- Decision-making process was not "as transparent as is possible"—it was covert; the public was completely oblivious of the drastic project changes in Sept/Dec2010 until January 06, 2012.
- The Public Advisory Council (PAC) has not been paneled since April 15th 2009 and was not consulted or involved in any of the decision-making resulting in removal of the previous preferred alternative and four other alternatives meeting 100% of Purpose and Needs in Sept/Dec2010 promoting 2B-2 as the new preferred alternative. 2B-2 only met one (20%) out of the five Purpose & Needs in April 2009.
- Transportation project decisions of this magnitude affecting multiple communities should have had Brewer City Council and Eddington Board of Selectman involved throughout, but they have not been included in the decision-making process; the MDOT is not listening to anybody—private citizen or elected official.

1.1. MaineDOT Mission Statement

This document provides guidance for MaineDOT personnel and the public on planning, designing and implementing issue-specific public involvement plans in order to achieve MaineDOT's *mission*:

MaineDOT's Mission:

Responsibly provide a safe, efficient, and reliable transportation system that supports economic opportunity and quality of life.

MaineDOT is committed to:

- Informing the public,
 - Proactively seeking and encouraging the public's early and continuing input and participation when developing policies, plans, programs, studies, projects, operations and maintenance activities,
 - Adhering to the principles of Environmental Justice and Title VI of the U.S. Civil Rights Act,
 - Being consistent with the MaineDOT Strategic Plan and the objectives of *Connecting Maine*, MaineDOT's statewide long-range multimodal transportation plan,
 - Improving customer service through training and effective external communication with stakeholders and the public,
 - Enhancing public awareness and participation,
 - Being fair, responsive and accountable to traditional and non-traditional stakeholders,
 - Communicating effectively with the public, and
 - Making the best possible transportation decisions to effect an efficient multimodal transportation system that meets the MaineDOT mission and needs of the people of Maine.
- Why is my quality of life being threatened by an alternative that does not meet the original intent of this project and only met 1 (20%) of the 5 Purpose and Needs of this project in April of 2009?
 - What ever happened to NO-Build?

The MaineDOT has accomplished some good projects within our community and we appreciate the support that they have provided to the City of Brewer in the past; however this decision by the MDOT/FHWA is flawed; it does not have public support as was evident at the May 2012 Public Hearing and does not meet the original Purposes and Needs of the Study and the intent of the project. Not one person rose up at the Public Hearing in favor of MDOT's selection of the 2B-2/preferred alternative.

MDOT Apologizes:

"The Maine Department of Transportation...regrets the insufficient outreach by MaineDOT to leaders of the affected communities along the proposed I-395 US Route 9 connector," the statement read. "Town officials and the residents of Brewer, Holden, Eddington and Clifton deserve to be fully informed of all decisions and progress. We recognize that it is our obligation to do so, and we will rectify this situation in the future. (BDN 1.06.12)

<http://bangordailynews.com/2012/01/06/news/bangor/mainedot-apologizes-for-not-informing-communities-of-i-395route-9-plan/>

- This apology rings hollow since FOAA documents indicate that at the same time the MDOT was apologizing and making promises—they were already withholding the fact that they planned a future downgraded design from freeway criteria to rolling criteria and a reduction of the right-of-way from 200' to 100' following conclusion of the NEPA process.
- Was it the obligation of Program Manager Lindsey to advise me on March 2, 2011 of the drastic changes to the study occurring in Sept/Dec of 2010? Why was such critical information withheld from a private citizen? Were her actions in compliance with Maine Statute: The department and the Maine Turnpike Authority shall take the comments and concerns of local citizens into account and must be responsive to them?
- MaineDOT officials have not apologized for excluding the public and their elected officials in the decision-making process and have made no attempt to remedy the problem by engaging elected officials of the City of Brewer or the Town of Eddington in the selection of this connector as State Statute dictates.
- May I remind everyone that absolutely zero information was shared with the public from April 15, 2009 until the BDN news article of 1.06.12 and in that time the previous preferred alternative and four other alternatives meeting 100% of the Purpose and Needs of the study were removed from further consideration and replaced with the 2B-2 alternative that met 1 (20%) of the 5 Purpose and Needs in April 2009; 5A2B-2 and 5B2B-2 were added for looks – there was never any support for either of the 5 alternatives – just 2B-2. No apology can make up for what was done with complete lack of transparency with no public scrutiny and I would add without the Public Advisory Committee being paneled.

The following is one of my 37 DEIS comments; this time you can see that the last three bulleted items were considered substantive.

Attachment: Comments and Public Meeting Transcripts

DEIS Comment/Question # 20.

Submitted by: Larry Adams, a Brewer resident, on April 18, 2012

Feasibility Study for private E/W Highway:

The privately funded and privately operated and maintained East-West toll Highway could be the state's ultimate opportunity to turn around the depressed economy of central and northern Maine. This proposal is a true regional solution to all truck traffic issues transitioning the state of Maine to and from the Canadian provinces. It will not use route 9, route 46, route 1A, I-395, I-95 or route 2. The private highway has the benefit of providing employment in the short and long term with the addition of Intermodal Facilities in Costigan and in Brownville Junction. The highway design will permit trucks to haul double and triple trailers minimizing both transportation costs and impacts to the environment. Private money will fund the construction and because the private highway will be built primarily on existing logging roads and private land owned by people supporting the new highway, it will avoid communities and will not displace private citizens from their homes and properties unlike the current I-395/Route 9 Connector Study.

- "Construction of a new 4-lane limited access highway between Calais and Bangor would result in a substantial diversion of traffic off existing Routes 1 and 9. A new 4-lane alignment is projected to carry an AADT of 11,400 to 11,600 in 2030. Such a route would remove nearly all of the existing traffic off of Route 9, as well as cut projected future traffic on Route 1 by roughly 2,300 vehicles per day below current levels." (A SUMMARY OF THE FINDINGS OF STUDIES REGARDING A MAINE EAST-WEST HIGHWAY Prepared by Maine Department of Transportation and Maine State Planning Office September 1999 SUMMARY OF FINDINGS)
- "Recent discussions in the Brewer-Holden-Eddington area about the planned Interstate 395-Route 9 connector, which is designed to ease heavy traffic between the Canadian Maritimes and the federal highway system, has led to some confusion over the two east-west highway proposals, Talbot said. "One is the southerly east-west highway and one is the northerly east-west highway," the Maine DOT spokesman said. "They're not connected in studies right now and they're not connected in funding right now.""(BDN 4/10/2012)
- Explain the differences in a northerly versus a southerly East West Highway. The existing E/W highway utilizing route 9 and the proposed E/W private highway both beginning in Calais and the existing route 9/46/1A/I395 segment goes to Bangor while the proposed E/W highway parallels route 9 by approximately 15 miles ending the local segment in Costigan, just north of Old Town—not hundreds of miles away as one might perceive reading the article. Only going west of the local area can the two highways be considered as northerly versus southerly. The private east west highway would do away with the need of the I395/route 9 connector due to lack of traffic on route 9 as stated in MDOT's own 1999 Study.
- Explain why the feasibility study of the privately funded East-West Highway should not halt the I-395/Route 9 connector study until that feasibility study is reported out on by January 15th of 2013?
- Explain how the I-395/Route 9 Connector Transportation Study can go forward without taking into account the projected loss of traffic in the route 9 corridor to and from the Canadian Provinces due to the proposed private East-West Highway.
- Explain why the MaineDOT/FHWA sees no problem with spending \$90+ million dollars on a connector that would have no traffic if the East/West private highway goes to construction based on this 1999 statement from a MaineDOT study: "would remove nearly all of the existing traffic off of Route 9"?

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Responses to Substantive Comments on the Draft Environmental Impact Statement

Exhibit 2 - Continued

Comment #	Summary of Substantive Comment	Response to Substantive Comment
1-6; 1-10; 17-1; 23-1; 40-1; 42-1	<p>East-West Highway: MaineDOT should wait until a decision about the construction of an East-West highway is made before any further money or time is misspent. Do we still need this connector given under the recent discussion on the private tolled east/west highway? The relationship of the new East-West Highway initiative to this project's purpose and need needs to be better addressed in the FEIS.</p> <ul style="list-style-type: none"> • Explain why the feasibility study of the privately funded East-West Highway should not halt the I-395/Route 9 connector study until that feasibility study is reported out on by January 15th of 2013? • Explain how the I-395/Route 9 Connector Transportation Study can go forward without taking into account the projected loss of traffic in the route 9 corridor to and from the Canadian Provinces due to the proposed private East-West Highway. • Explain why the MaineDOT/FHWA sees no problem with spending \$90+ million dollars on a connector that would have no traffic if the East/West private highway goes to construction based on this 1999 statement from a MaineDOT study: "would remove nearly all of the existing traffic off of Route 9"? 	<p>Comment Noted. The purposes and needs of this project and its solutions lie specifically in the study area shown in the DEIS. The East-West Highway has its own purposes, needs, and solutions in a different area.</p> <p>There has been much recent discussion about not needing a connection to the Interstate system in the I-395/Route 9 study area because a proposed new East-West highway would meet the system-linkage need between I-395 and Route 9. MaineDOT and the FHWA will continue to consider the I-395/Route 9 Transportation Study because:</p> <p>The I-395-Route 9 Connector provides a distinct and more southerly connection. Traffic between the Canadian Maritime Provinces and the New England states is different from the traffic from the Maritime Provinces that want to travel to the larger markets of Quebec, Ontario, and the Midwestern United States to the West.</p> <p>The I-395-Route 9 Connector is more sub-regional and local in nature. Only 1% of the traffic studied in the 1998 Origin-Destination Study traveled from the Maritime Provinces to other western Canadian destinations.</p>

- First—note that my three comments have not been really been answered. Secondly—note that an effort is made to make it seem that there is no way that the two routes ever cross paths.
- For the first time in this thirteen year study, the I-395/Route 9 connector is now labeled "sub-regional and local in nature".
 - 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. <http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (Pg. 5)
- The proposed private East-West Highway parallels Route 9 by some 15 miles and will have an exit at I-95 north of Bangor. It doesn't matter if one route is labeled southerly or westerly if both routes provide an exit to the same location. And—in fact if you look at both routes—they are essentially East-West routes until they

reach Bangor where they can go in any direction. Traffic can easily use the Private E/W Highway westbound and exit north of Bangor to go southbound—just like the I-395/Route 9 Connector—it's as easy as that.



<http://stopthecorridor.org/resources/media/EWhwyConceptFeasStudy.pdf>

- The biggest difference in traffic traveling on the proposed Private East/West Highway and the existing East-West Highway is that if you take the proposed Private Highway, you will have time to stop for gas and a burger at Dysart's and still be ahead of the traffic utilizing the existing state East-West Highway.

What traffic on Route 9?

- **"Construction of a new 4-lane limited access highway between Calais and Bangor would result in a substantial diversion of traffic off existing Routes 1 and 9. A new 4-lane alignment is projected to carry an AADT of 11,400 to 11,600 in 2030. Such a route would remove nearly all of the existing traffic off of Route 9, as well as cut projected future traffic on Route 1 by roughly 2,300 vehicles per day below current levels."** (A SUMMARY OF THE FINDINGS OF STUDIES REGARDING A MAINE EAST-WEST HIGHWAY Prepared by Maine Department of Transportation and Maine State Planning Office September 1999 SUMMARY OF FINDINGS)

<http://www.maine.gov/mdot/1999eastwesthwystudy/documents/Tech%20Report%20on%20East-West%20Highway.pdf>

- Where is the dire necessity for the I-395/Route 9 connector if the Private East-West Highway is constructed?
- As stated above: a four-lane highway from Calais to Bangor "would remove nearly all of the existing traffic off of Route 9". It is not hard to imagine that many would prefer to travel on a new highway built to Canadian specifications (as we have been told—greater than current Maine highway specs) @ 75 mph instead of travelling the existing Route 9 built to rural rolling criteria @ 55 mph.

The 126th Transportation Committee voted to repeal the Feasibility Study—Does that put an end to the Private East/West Highway?

CEO Peter Vigue said Wednesday he supported the decision of the Legislature's Transportation Committee to repeal a feasibility study for the proposed east-west highway.

The leading proponent of the proposed highway said the project can still move forward despite the committee's action.

"The study [by the state] is certainly not a prerequisite for a project like this being successful or going forward," Vigue said in a telephone interview.

<http://bangordailynews.com/2013/05/08/news/mid-maine/peter-vigue-says-he-supports-decision-to-kill-east-west-highway-study/>

Intent of the East-West Highway Initiative
I-395/Route 9 Connector
MDOT/FHWA/ACOE Technical
Memorandum dated October 2003:

<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (Summary page 5)

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.

- 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.
 - Does the 2B-2/preferred alternative meet the original intent of the East-West Highway Initiative? NOT AT ALL
 - Do any of the three remaining alternatives meet the original intent of the East-West Highway Initiative? NO-NONE
 - All five alternatives, including the 3EIK-2/preferred alternative, meeting 100% of the Purpose and Needs of this Study and the intent of the East-West Highway Initiative were removed from consideration in September 2010.

Intent of the East-West Highway Initiative

Per FOAA Document #000365 dated 1.13.12

From: Charette, Russ
Sent: Friday, January 13, 2012 12:22 PM
To: Sweeney, Ken
Subject: I-395/Route 9 Study

Ken,

These are the notes Bill took in a conversation about (some) of your comments. Were there others?

Ken stopped this morning to discuss the Adm. Draft DEIS he had two comments:

Replace Jonathon with Todd Jorgensen, the new Division Administrator as the FHWA signatory

Minimize the discussion of the alternatives connection with the concept of an East-West highway. Instead, emphasize the alternative's regional benefits, connectivity of direct access from I-395 to Route 9, and the safety aspects of the connection.

Russ

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

- Minimize the discussions of the alternatives connection with the concept of an East-West Highway. What happened since October 2003 to marginalize what was once touted as the intent of the East West Highway Initiative?
- Instead, emphasize the safety aspects of this connection:
 - 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 was dismissed...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.
 - 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, 200 buildings (residential and commercial) would be located in proximity (within 500 feet) of the proposed roadway. There are several hundred acres that can be developed along this section of Route 9.
<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf>
 - However, future development along Route 9 in the study area can impact future traffic flow and the overall benefits of the project. (DEIS page S19)
- Instead, emphasize the alternative's regional benefits:

- 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. (2B-2 does not provide this direct connection.)
<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf>
- Does it make any sense to mandate that a segment of the existing East West Highway should have to continue to transit the village of East Eddington @35 mph enduring five speed changes from the Eddington/Clifton border over the same 4.5 miles of Route 9 that was to be bypassed by the original System Linkage Need specification stated in the October 2003 MDOT/FHWA/ACOE Technical Memorandum? It doesn't make good engineering sense to utilize that same 4.5 mile segment of Route 9 that the original System Linkage Needs criteria bypassed to get the traffic from Route 9 at the Eddington/Clifton (east of Route 46) border direct to I-395.
- The MDOT/FHWA has failed to select an alternative meeting the original Purpose and Needs of this Study and has failed to select an alternative that would meet the intent of the East West Highway Initiative per the MDOT/FHWA/ACOE October 2003 Technical Memorandum. <http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf>

Freedom of Access Act (FOAA):

Why do plans and policy exist, governing the relationship between the MDOT and the public, when it has been my experience over the past 16 months that there is basically no relationship at all? Plans and policy may look good to an outsider but aren't worth the paper they're printed on unless they are actually adhered to and enforced. I have lost all faith in the many State and Federal Agencies involved in this Study.

Since discovering Study changes in mid-December 2011, it has been 16 months of half-truths, mistruths, unanswered questions and marginalized public comments to the DEIS and Testimony at the Public Hearing; now with the many irregularities found in recent FOAA documents versus the Draft Environmental Impact Statement, prior emails and conversations we have had with MDOT and FHWA officials—it's hard for me to believe anything that these agencies may present now or in the future.

Impacted private citizens or their local community leaders should never have to file a FOAA request to find out critical information that the MDOT should be divulging freely. The FOAA process seems to be the only way that we find out everything about this project. Why has this critical information been withheld?

Following a recent BDN article, the MDOT Project Manager stated in the MDOT biweekly status report to the impacted communities on 4.19.12:

- "There was a lot of information included in a recent news article, some of which may be miss-leading.."
- "As such, individual documents may not be the current correct information and represents a snapshot of that point in time."
- "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."

FOAA documents, several within only months of the DEIS publications by key players in this study tell a different story; YES—there seems to be some misleading information:

- "We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria. (FOAA Document #000391 Gannett Fleming Project Manager W.P. to MDOT Project Manager J.L. dated 12.6.11)
- ...we will apply this percent reduction to the cost to construct the build alternatives that is shown in the DEIS/Section 404 Permit Application." (FOAA Document #000391 Gannett Fleming Project Manager W.P. to MDOT Project Manager J.L. dated 12.6.11)
- "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...Using a rolling design..." (FOAA Document #000431 Chief Engineer Sweeney to I-395/Route 9 Transportation Study Project File dated 1.30.12)
- "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." (FOAA Document #001143 email from Project Manager J.L. to R.B.)
 - So what is the real design standard—freeway or rolling?
 - What is the real proposed right-of-way—200 feet minimum or 100' to 125'?
 - Are these FOAA documents inaccurate?
 - Misleading? Appears so—where is the truth?
 - Where is the transparency?

A simple example of MDOT refusing to freely provide simple information:

- Who determined what was substantive in our DEIS comments and Testimony at the Public Hearing?

Larry Adams

From: "Charette, Russ" <Russ.Charette@maine.gov>
Date: Friday, July 20, 2012 3:09 PM
To: "Larry Adams" <bgradams@roadrunner.com>
Cc: <sbost@brewerme.org>; <carol_woodcock@collins.senate.gov>; <townofeddington@roadrunner.com>; <John@HoldenMaine.com>; "Hasselmann, Mark" <mark.hasselmann@dot.gov>
Subject: RE: Questions/Comments
Mr. Adams,

Thank you for your recommendations on our Public Process. MaineDOT/FHWA received 179 submissions to our request for comments. Some of the submissions had multiple comments. The comments received have been reviewed and aggregated by the consultant. The consultant has recommended a determination of substantive comments and has provided draft responses to most of the substantive comments. Some comments, like a comment on a possible archeological site will take some time to investigate. That particular comment has been referred to the Maine State Historic Preservation Commission staff who will need to schedule a field investigation with the property owner(s). We just received the US Army Corps of Engineers comments last week, along with a preliminary determination that Alternative 2B-2 is the LEDPA. We continue to work on the Draft Responses to the Sustentative Comments. The 300 page draft document has been reviewed by MaineDOT staff and will subsequently be submitted for FHWA review and comment. I anticipate that the document will be submitted to FHWA in the latter part of next week. Upon FHWA review and comment, I anticipate that a working session will be scheduled with the co-operating agencies (EPA, USFWS, USACE), also to include FHWA as the lead Federal agency. This meeting will occur outside the Interagency Meeting. Once the co-operating agencies have had an opportunity to review and comment on the draft document I anticipate that the draft document will then be discussed at the next regularly scheduled Interagency Meeting. Information on the two comments/ question will be update in the document as MaineDOT receives them. The two comments where we have requested and are awaiting receipt of the information are the comment on a possible archeological site and a comment on new Zoning regulation for the Town of Eddington. timing of the meetings has yet to be determined.

From the MDOT Project Manager:

- "The comments received have been reviewed and aggregated by the consultant."
- "The consultant has recommended a determination of substantive comments and has provided draft responses to most of the substantive comments."

From: "Larry Adams" <bgradams@roadrunner.com>
Date: Friday, October 05, 2012 12:13 PM
To: <Mark.Hasselmann@dot.gov>; <Russ.Charette@maine.gov>
Cc: <carol_woodcock@collins.senate.gov>; <sbost@brewerme.org>
Subject: Route 9 Connector update
Good afternoon Gentleman:

I see that the October Interagency Meeting has been cancelled, please explain the reason.

Has the connector "working session" taken place; if not is it scheduled? If the working session has been accomplished – what was the outcome? It still is hard to understand why this separate working session is required since the working session appears to be something that Mr. Plumpton devised to gain consensus between agencies when the Interagency meeting was not the getting the results that he and the MDOT were looking for.

Have there been any discussions of any kind and in any form outside of the working session/Interagency Meeting format to either discuss or determine the outcome of this study? Are we really supposed to believe that this Study has not been talked about in at least a non-formal setting?

What is the current status of this study? Why is it taking so long? When do you expect this to be discussed at an Interagency Meeting?

When will you share the answers to our "substantive" comments/questions with the citizens of the three impacted communities and their local government officials? Why haven't even the simplest questions raised at the May Public Hearing been answered yet?

I request the name of the consulting firm that solely determined what was substantive from my comments and questions to the DEIS. I asked this question in a prior email and got no answer – please consider this second attempt as a FOAA request. If it is the same consulting firm that has been essentially running this study from the start, it seems like that would be a conflict of interest and I apologize for my accusation if that is not the case.

- I request the name of the consulting firm that solely determined what was substantive from my comments and questions to the DEIS. I asked this question in a prior email and got no answer – please consider this second attempt as a FOAA request.
- Why did I have to file a FOAA for a simple question? Why couldn't Mr. Charette just be honest enough to tell me?

FOAA Response from the MDOT Attorney:

Larry Adams

From: "Hewes, Richard" <Richard.Hewes@maine.gov>
Date: Wednesday, October 10, 2012 4:45 PM
To: <bgradams@roadrunner.com>
Cc: "Charette, Russ" <Russ.Charette@maine.gov>
Subject: Your Freedom of Access Act Request Relative to the Route 9 Connector Project
Mr. Larry Adams
Brewer, Maine

VIA ELECTRONIC MAIL TO: bgradams@roadrunner.com

Re: Your Freedom of Access Act Request Relative to the Route 9 Connector Project

Dear Mr. Adams:

This email is the Maine Department of Transportation's reply to your October 5, 2012 request under Maine's Freedom of Access Act. Your request was contained in an electronic letter to Russell Charette, P. E., an engineer who works here at the Maine Department of Transportation.

You requested "the name of the consulting firm that solely determined what was substantive from [your] comments and questions to the DEIS" for the I-395/Rt. 9 connector project whose planning is now underway. The short answer is that no consulting firm solely determined what was, and what was not, substantive about your comments and questions relative to the DEIS. That being said, I want to let you know that Gannett Fleming, a consulting firm, has been under contract with MaineDOT to assist in moving the I-395/Route 9 transportation study through the environmental impact statement process.

Gannett Fleming did not solely determine which of your comments and questions were substantive, but it is the consulting firm that assisted MaineDOT in reviewing your comments and questions and helped determine what information was substantive.

Very truly yours,

Richard N. Hewes

Richard N. Hewes
Transportation Attorney
MaineDOT (207) 624-3020

That consultant was Gannett Fleming. I had already figured that would be the case, but instead of the MDOT giving me an honest answer to a viable question—I had to file a FOAA request to obtain that information.

- Wouldn't one think that would be a simple question – where is the confidentiality in naming the consultant that has worked for this study over the last 13 years?
 - How is this in anyway responsive to my comments/concerns per State Statute?
 - Where's the transparency?
 - Note also that in the July 20, 2012 email, the MDOT Project Manager for this Study clearly indicates:

- “The comments received have been reviewed and aggregated by the consultant.”
- “The consultant has recommended a determination of substantive comments and has provided draft responses to most of the substantive comments.”
- Yet the MDOT Attorney backs away from these statements by adding the words: “did not solely” and “assisted” and “helped determine”.
 - Who would know better who is working on the project, the MDOT Project Manager of the project or the MDOT Attorney?

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.

Our limited State and Federal tax dollars need to be spent wisely repairing the existing infrastructure.

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

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

Thank you for your time and consideration, Larry Adams