

**MARCH 2014**



**Everything you always wanted to know about the I-395/Route 9 Transportation Study and the 2B-2 alternative but were afraid to ask.**

**“As one senior MaineDOT engineer used to remark, all it takes is ‘one angry man with a laptop’ to significantly impede forward progress.” (Connecting the D.O.T.S)**

[http://www.nado.org/wp-content/uploads/2011/09/Cole\\_ConnectDOTs.pdf](http://www.nado.org/wp-content/uploads/2011/09/Cole_ConnectDOTs.pdf) (pg19)

**13 years of historical data begs to question the integrity of the MaineDOT/FHWA 2B-2 selection.**

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



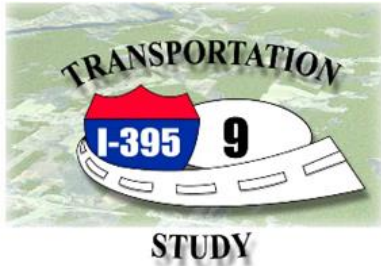
**Purpose and Needs Matrix**

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)

**How did 2B-2—satisfying only one (20%) of five Purpose and Needs in April 2009—become the preferred alternative? MaineDOT/FHWA would like you to believe that all it took was “another hard look at Route 9”. The selection of 2B-2 is flawed, inconsistent and shortsighted as evidenced by MaineDOT/FHWA’s own words over most of the first decade of this Transportation Study:**

## What was the original System Linkage criterion for this project?



I-395/Route 9 Transportation Study  
Penobscot County, Maine  
PIN 008483.20/NH-8483(20)E

Transportation Improvement Strategies  
and Alternatives Analysis Technical  
Memorandum  
and  
U.S. Army Corps of Engineers Highway  
Methodology Phase I Submission

October 2003



U.S. Department of  
Transportation  
Federal Highway  
Administration



Maine Department  
of Transportation

<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (pg5)

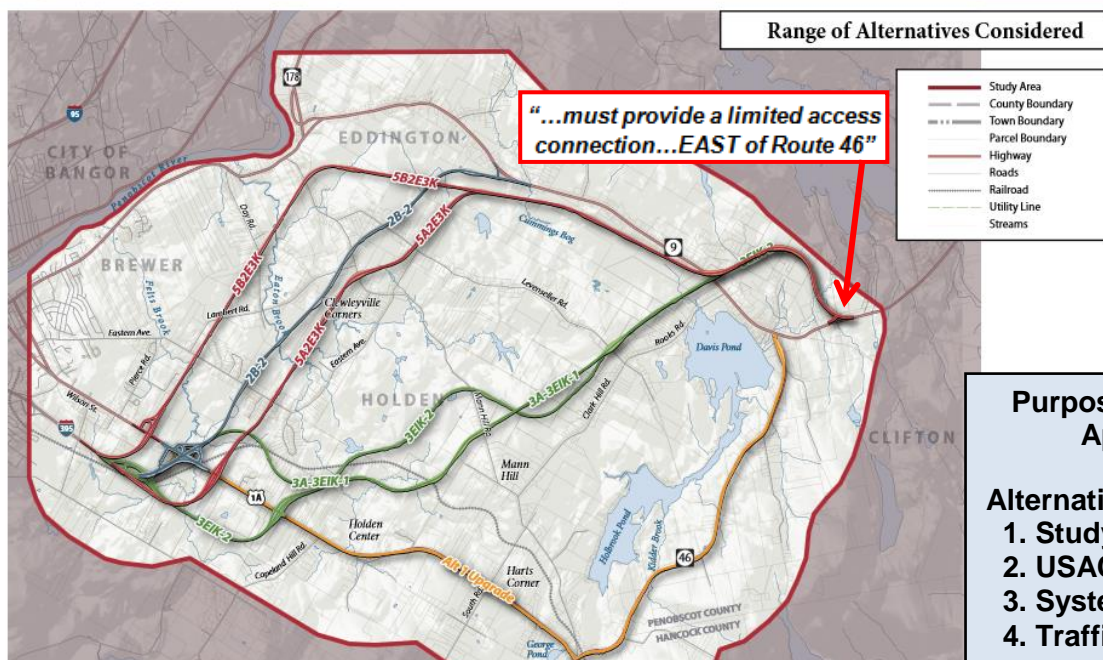
- *“To meet the need of improved regional system linkage while minimizing impacts to people, it was determined that an alternative must provide a limited-access connection between I-395 and Route 9 east of Route 46.”*
- *“Alternatives that do not provide a limited access connection to Route 9 east of 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.”*

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

[http://www.i395-rt9-study.com/Pubs/PAC041509\\_handouts.pdf](http://www.i395-rt9-study.com/Pubs/PAC041509_handouts.pdf)



*“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.”*



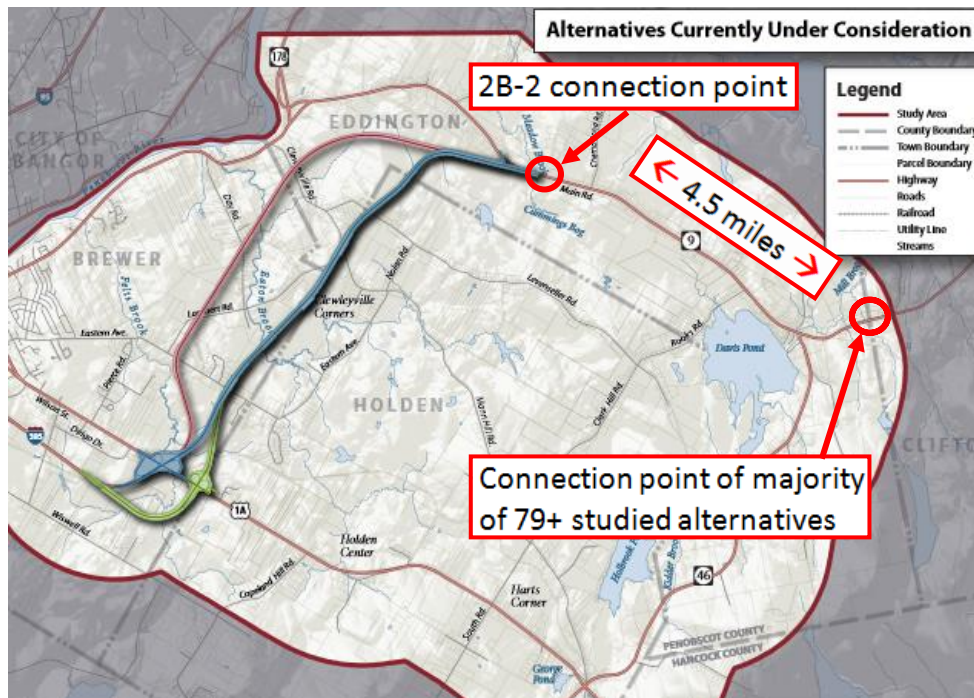
#### Purpose and Needs Matrix April 15, 2009 pg1

Alternative 2B-2 did not meet:

1. Study Purpose
2. USACE Purpose
3. System Linkage Need
4. Traffic Congestion Need



## Where is the Route 9 connection point now?



### Posted Speed Limit through East Eddington (0.8 miles)

This section of Route 9 was bypassed by the majority of 79+ studied alternatives—now that same section of Route 9 is an integral part of 2B-2...

**Alternative 2B-2's Route 9 connection is 4.5 miles WEST of where the majority of the 79+ studied alternatives terminated EAST of Route 46. 2B-2 does not satisfy the original System Linkage Need of this Study.**

### What is the speed limit on that 4.5 mile section of route 9?

- There are five changes in posted speed limits from 35 to 50 mph.



### How many separate access points exist on that 4.5 mile section of Route 9?

- "There are ten local roads and 148 existing drives or access points to undeveloped lots." <sup>1</sup>
- An unofficial survey in February 2012 counted 190 separate and specific access points.
- The 158-190 access points plus the five changes in posted speed limits from 35 mph to 50 mph on that 4.5 mile section of Route 9 are the same issues that the MaineDOT/FHWA identified when removing alternative 2B from further consideration in January 2003: "Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards". <sup>2</sup>

### **100,000# trucks will still have to transit through the Village of East Eddington.**

- "The speed of traffic through the East Eddington village has always been a concern. As a built up area, it poses a challenge to making connections to Route 9 west of the East Eddington Village." <sup>3</sup> (As stated by MaineDOT Project Manager (RF) at final PAC meeting held 4/15/2009.)

## What is the DEIS description of alternative 2B-2?

### Alternative 2B-2

Alternative 2B-2 would further the study's purpose and satisfy the system linkage need in the near term. 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. It would satisfy the study need related to traffic congestion and safety. It would satisfy the USACE's basic purpose statement.

DEIS page s12-s13

### Estimated Construction Costs

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 page s15-s18

<http://www.i395-rt9-study.com/DEIS/00Sum.pdf> <sup>4</sup>

**Controlled-Access Highway** – A highway that provides limited points of access and egress. Freeways, such as I-95, are controlled access highways in which access points occur only at interchanges. These highways serve mobility needs, and are designed to accommodate higher travel speeds.

**Limited-Access Facility** – A highway where access to abutting properties is restricted or limited by control of the right-of-way.

<http://www.i395-rt9-study.com/glossary.html>

- **“Limited opportunities exist to control access management on this section of Route 9 from local roads and driveways.”** <sup>5</sup>
- **“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.”** <sup>6</sup>
- **“Joan Brooks commented that one of the requirements of the study is to create a limited access facility....Ray added that recent legislative policy instructs DOT to limit access on most major arterials in the state. The idea is to increase efficiency and reduce costs.”** <sup>7</sup> (PAC Meeting #8)
- MaineDOT/FHWA continue to promote an unviable and deficient alternative that requires the use of the same 4.5 miles of the existing and not-to-be-improved Route 9 that would have been bypassed by any alternative meeting the original System Linkage Need parameter.

- **“...2B-2 would be a controlled-access highway...”**  
(Original study criteria: “a limited-access connection...Route 9 east of Route 46”.)
- **“...designed using the MaineDOT design criteria for freeways.”**  
(FOAA indicates downgrade in end-state design “using rolling criteria”.)
- **“Two lanes would be constructed and used for two-way travel...”**  
(Future upgradability option to a four-lane divided highway, available as safety and traffic conditions warranted, was removed by Oct 2011.)
- **“...within an approximate 200-foot-wide right-of-way.”**  
(FOAA indicates a “100’ to 125’ ROW width”.)
- **“Route 9 would not be improved, and it would not provide high-speed, limited access connection to the east of East Eddington Village.”**  
(That same 4.5 mile section of Route 9 was bypassed by the majority of the 79+ studied alternatives—simply put—any alternative meeting the original System Linkage Need bypassed that same section of Route 9 and the village of East Eddington.)
- **“...costs...include ...mitigating environmental impacts.” The cost of alternative 2B-2 is “approximately \$61 million”.**  
(FOAA indicates alternative 2B-2, designed using “the DOT’s freeway criteria”, costs \$93.24 million—not including mitigation.)

MaineDOT’s definition of a controlled-access highway does not seem to fit alternative 2B-2. This connector is not even close to emulating I-95...there are 158 additional access points on that 4.5 mile section of Route 9, an integral part of the 2B-2 alternative. That is 158 additional access points that the majority of the 79+ studied alternatives did not have to contend with! Is that within the MaineDOT definition of controlled-access?

**FYI:** MaineDOT Commissioner has sanctioned a centerline-cable-barrier as part of the construction of 2B-2 to minimize head-on collisions. The system integrates a cable-barrier to separate the two travel lanes.

## Is the design criteria freeway or rolling—is the ROW 200 feet or 100 feet??

April 8, 2013

**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](#).



*"We talked a little about the rolling design."  
"...memo written by Ken" is FOIA Doc #000431 on page 8 of this document.*

*"They both explained that, even though the ROW is being reduced to 100ft..."*

*"I raised the points about Mark Hasselmann writing comments as an 'anonymous' poster on the NEPA forum."*

*"They both weren't troubled by his dissenting remarks because they said his superior at FHWA had overruled him."*

*"I asked about the cable dividers – they are still going to be included – and, yes, no passing."*

**Why would the MaineDOT Commissioner and Chief Engineer freely discuss the rolling design criteria and reduction in the ROW to 100 feet with Carol Woodcock (Office of U.S. Senator Collins)—if it wasn't the truth?**

## Eddington residents learn state plans 'rolling rural' route for I-395/Route 9 connector

April 17, 2013

- *"Planning board member Gretchen Heldmann gave a summary report of the 1,239-page FOIA response at Tuesday's selectmen's meeting...documents reveal that MDOT: Changed the design criteria and downgraded the limited access highway project to a two-lane rolling rural route. The change reduces the right-of-way needs from 200 feet of width to between 100 and 125 feet over the approximately 5-mile-long route from Brewer to Eddington."*
- *"MDOT project manager Russell Charette responded Wednesday to Heldmann's conclusions by saying the state agency's federal partners asked for a change in the design criteria, that the change would reduce costs, and that all public comments are part of the final report he is finishing."*

**Did Mr. Charette say "Heldmann's conclusions" were incorrect in the Bangor Daily News Article?**

- **NO—he simply stated: "...federal partners asked for a change in the design criteria..."**



## Two days later Mr. Charette makes some conflicting statements:

April 19, 2013

From: Charette, Russ

Sent: Friday, April 19, 2013 2:38 PM

To: <mailto:albromley@roadrunner.com> ; <mailto:john.bryant@amforem.biz> ; <mailto:John@HoldenMaine.com> ; <mailto:johns@brewerme.org> ; <mailto:rkemerson@emdc.org> ; <mailto:RPLane@laneconstruct.com> ; <mailto:townofeddington@roadrunner.com> ; <mailto:SBost@BrewerME.org>

Cc: <mailto:nicker@bangordailynews.com> ; Plumpton, William M. ; Rollins, Scott ;

<mailto:Mark.Hasselmann@FHWA.dot.gov> ; <mailto:cassandra.chase@dot.gov> ; Talbot, Ted W (PIO) ; Thomson, Herb

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

Mr. Charette stated in the BDN only two days before this email:  
"...federal partners asked for a change in the design criteria..."

***"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."***

***"... (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."***

***"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."***

In my opinion—Mr. Charette walked back those facts to make sure that the MaineDOT and the FHWA did not become noncompliant with NEPA (National Environmental Policy Act). All 79+ alternatives are supposed to be studied under the same "apples to apples" comparison, as Mr. Charette alludes to in his email, whether it is design criteria, right-of-way or any criteria used within the Study. Changing the design criteria to only the preferred alternative this late in the study without any consideration of the other 79+ studied alternatives would have obviously raised some eyebrows and more than likely have been noncompliant with NEPA.



- Is a future downgrade in design criteria "following the conclusion of the NEPA process" and applicable only to the 2B-2/preferred alternative compliant with NEPA?
- What about doctoring the cost in the DEIS to enable a convenient talking point—is that within compliance with NEPA?
- Was Mr. Charette concerned about noncompliance with NEPA when he walked back his earlier comments?

## Eddington's FOAA Documents reveal a different story:



**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.

**Doesn't this letter suggest intent to deceive or is this Standard Operating Procedure?**

Sincerely,

Gannett Fleming, Inc.

William M. Plumpton, CEP  
Project Manager

- Were any of the many state/federal agencies with sign-off authority on this project swayed by the intentional reduction in cost as applied to the DEIS per this letter?
- Was the objective to make alternative 2B-2 appear as a "more affordable alternative" to shift the conversation from the deficiencies of alternative 2B-2 in an effort to manipulate the outcome of this transportation study?

- **"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."**
- **"...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."**



000392

### 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

Cost estimate "was prepared using the DOT's freeway criteria"; 2B-2's total cost @**\$93.24** million (excluding mitigation). "The memoranda will reflect the costs shown in the attached estimates" yet the DEIS will use a reduced cost yet TBD at the time of this document. 2B-2's DEIS-stated total cost @**\$61** million; 2B-2's DEIS-stated design: "MaineDOT's design criteria for freeways". Hmmm!



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%.

- ***“The build alternatives have been designed...using MaineDOT’s criteria for freeways.”***
- ***“After reviewing the cost estimates for the build alternatives, the cost estimates should be reduced by one-third...”***
- ***“...basis for this one-third reduction includes...using a rolling design...”***



**FYI: “Alternative 2B-2...connecting to Route 9 at a “T” intersection. Route 9 eastbound would be controlled with a stop sign.” (DEIS s12)**

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

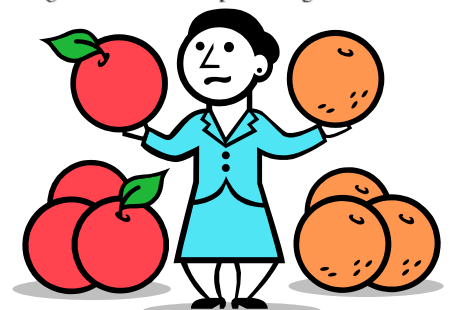
JUDY LINDSEY

MAINE DEPARTMENT OF TRANSPORTATION

BUREAU OF TRANSPORTATION SYSTEMS PLANNING

16 STATE HOUSE STATION

AUGUSTA, MAINE 04333-0016



***“Ken decided the reduced lane and 100' to 125' width was all we needed in the foreseeable future so why buy more.”***

Ken is Chief Engineer Ken Sweeney of the MaineDOT. Judy Lindsey was Project Manager at that time.

***“reduced lane” refers to the design criteria change from 4-lane/4 lane ROW to only a 2-lane/2-lane ROW revealed during Oct2011 MaineDOT Interagency Meeting. This change affects only the last three remaining alternatives in consideration and not the other 79+ alternatives.***

***Apples to apples??***

***“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.” (See page 14)***



**From:** Sweeney, Ken  
**Sent:** Friday, January 13, 2012 1:07 PM  
**To:** Charette, Russ  
**Subject:** RE: I-395/Route 9 Study

000364

Yes...as follows:

Does the purpose statement need to reference AASHTO POLICY? If it must then it should say GUIDE not policy.

Add a sentence or two about Freight connectivity and the recent Congressional action to allow 100k trucks on the interstate system and the critical need to provide a safe connection to the interstate system for those trucks on route 9 from Canada and regionally from Washington County and EastPort Port needing to travel to points south and west.

Fill in the range of cost alternatives....Low should be no greater than \$65 M ..you decide High. 000365

Anticipated Construction could begin in 2014-2015

We also discussed wording and had a meeting with the biologists that led to a comment that we should only commit to the 1.2 bankful on the structures that make environmental sense and not a blanket 1.2 statement. We should also avoid the "will be considered in final design" when it involves environmental commitment because the regulators interpret the language consider the same as require.

That's all I recall

Thanks

ken



***"Fill in the range of cost alternatives....Low should be no greater than \$65M ..you decide High."***

**MaineDOT's Chief Engineer giving instruction on filling in the range of costs to the MaineDOT Project Manager.**

**What kind of engineering is that? Where are the facts?**

## State of Maine Statutes:

<http://www.mainelegislature.org/legis/statutes/23/title23sec73.html> :

Title 23: TRANSPORTATION  
 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.

<http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec456.html> :

Title 17-A: MAINE CRIMINAL CODE  
 Part 2: SUBSTANTIVE OFFENSES  
 Chapter 19: FALSIFICATION IN OFFICIAL MATTERS

1. A person is guilty of tampering with public records or information if he:
  - A. Knowingly makes a false entry in, or false alteration of any record, document or thing belonging to, or received or kept by the government, or required by law to be kept by others for the information of the government; or
  - B. Presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in subsection 1, paragraph A; or
  - C. Intentionally destroys, conceals, removes or otherwise impairs the verity or availability of any such record, document or thing, knowing that he lacks authority to do so.
2. Tampering with public records or information is a Class D crime.

Maine's statutes don't merely apply to the citizenry—the statutes apply equally to the conduct of civil servants sworn to serve that citizenry. All you can ask of your government is a fair and honest process; this process has been anything but fair and it certainly has lacked any semblance of honesty.

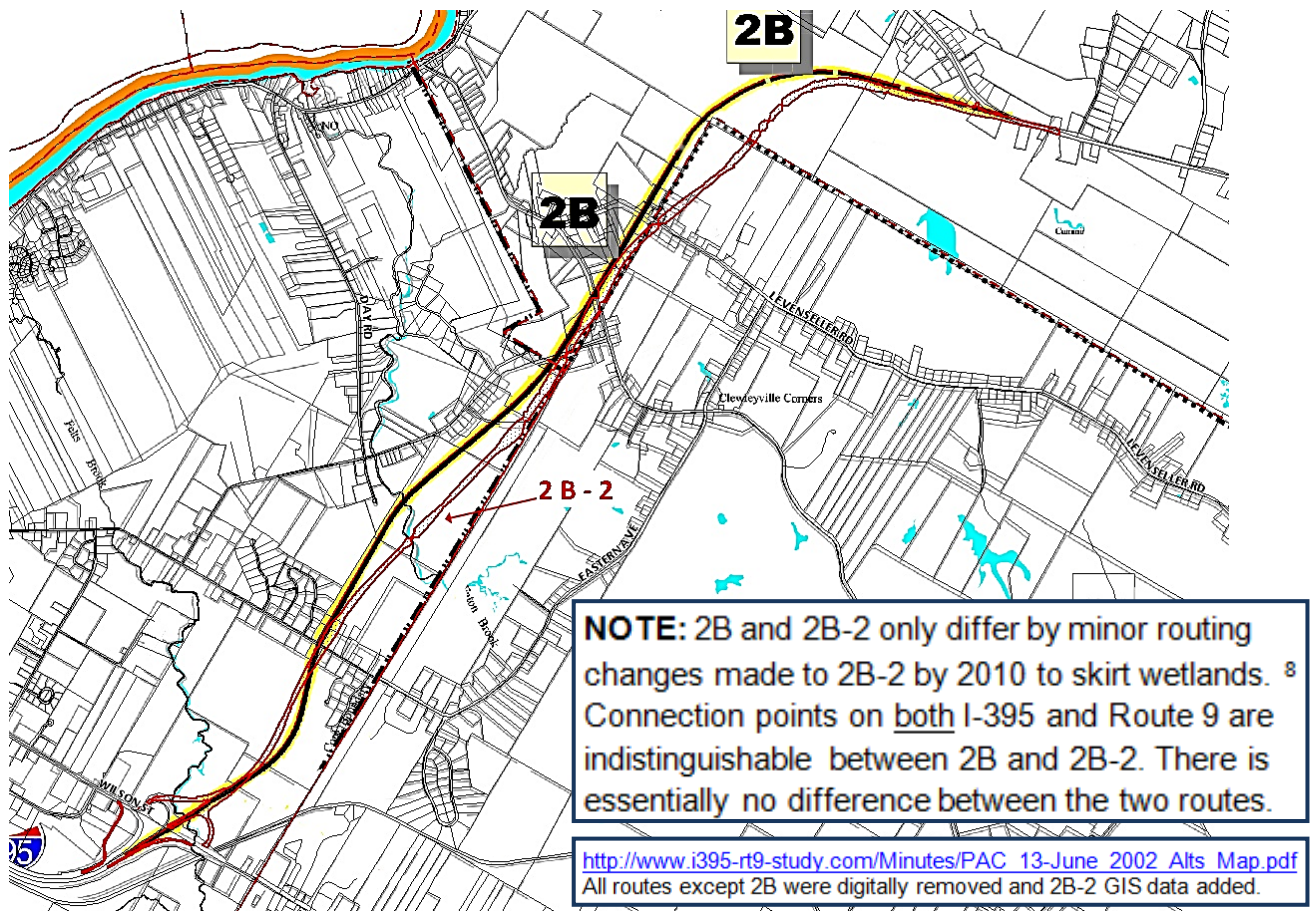


***"...Knowingly makes a false entry in...any record, document or thing belonging to...the government... Presents or uses any record, document or thing knowing it to be false; and with intent that it be taken as a genuine part of information or records..."***

## A “hard look at Route 9”?

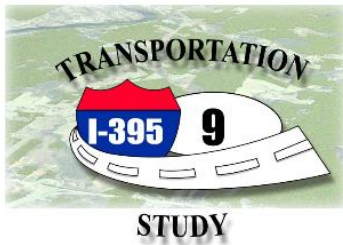
- This “hard look” led the Town of Eddington to file a FOAA request in October 2012 seeking analysis from the MaineDOT on what that “hard look” entailed; it also led a private citizen, Gretchen Heldmann, to file multiple FOAA requests and later file a lawsuit against the MaineDOT to obtain that data—MaineDOT settled that case with the caveat that the settlement cannot be disclosed—so much for transparency. There still seems to be a total lack of hard information regarding what analyses the MaineDOT/FHWA did to magically see, a decade into the study, that Route 9 would suddenly suffice.
- Somehow, a “hard look” was enough to substantially change the direction and design of this project. Throughout the decade, the majority of the alternatives studied bypassed Route 9 in Eddington to connect east of Route 46, bypassing the village of East Eddington. Now, it has been determined that using 4.5 miles of Route 9 and building a shorter, undivided, 2-lane “rolling rural” design—with a 100 foot ROW—instead of a divided, 4-lane freeway design road—with a 200 foot ROW—not only meets Purpose and Needs but somehow these changes are not substantive enough to warrant input from the Public Advisory Committee or re-analysis of past alternatives under these new down-designed specifications.

**MaineDOT/FHWA's preferred alternative is nothing more than the original 2B alternative removed (twice) from further consideration by January 2003.**





## Why was the original **2B alternative removed from further consideration?**



I-395/Route 9 Transportation Study  
Penobscot County, Maine  
PIN 008483.20/NH-8483(20)E

Transportation Improvement Strategies  
and Alternatives Analysis Technical  
Memorandum  
and  
U.S. Army Corps of Engineers Highway  
Methodology Phase I Submission

October 2003



U.S. Department  
of Transportation  
Federal Highway  
Administration



Maine Department  
of Transportation

- “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.**” (pgii)
- “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.**” (pgii)
- “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).” (pgii)
- “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.**” (pg20)

- “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.**” (pg20)
- “**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.**” (pg20)
- “**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.**” (LOS stands for Level of Service) (pg21)



**MaineDOT/FHWA statements of fact regarding the reason(s) for removing alternative 2B from further consideration by Jan2003 are just as germane today when deliberating the viability of 2B-2. If 2B didn’t fit in the first two years of this study, why did it unexpectedly fit in the tenth year under the guise of 2B-2?**

- 2B-2 is “Déjà vu all over again”. (Yogi Berra)

## In the near-term (Year 2035) or How to make 2B-2 meet System Linkage Need:

### C - I-395/Route 9 Transportation Study Environmental Impact Statement

Alternatives	Description	Meets Purpose		Meets Needs			Practicable	Results
		Study Purpose	USACE Purpose	System Linkage	Safety Concerns	Traffic Congestion		
Alternative 2B	<ul style="list-style-type: none"> <li>Satisfies design criteria</li> <li>Length: 5.8 mi. of new alignment, 4.2 mi. of Route 9 without additional improvement</li> <li>Bridge length: 4,354 ft.</li> <li>Earthwork: 1.8 mcy (0.9 mcy cut, 0.9 mcy fill)</li> </ul>	Yes	Yes	In the near-term (Year 2035)	Yes	Yes	Yes	<ul style="list-style-type: none"> <li>Dismissed - other alternatives less environmentally damaging</li> <li>Wetlands impacts: 28 ac.</li> <li>Stream crossings: 6 (2 with anadromous fish)</li> <li>Floodplain impacts: 11 ac.</li> <li>Notable wildlife habitat: 4.4 ac.</li> <li>Undeveloped habitat: 647 ac.</li> <li>Prime farmland: 23.3 ac.</li> </ul>
Alternative 2B-2	<ul style="list-style-type: none"> <li>Satisfies design criteria</li> <li>Length: 6.1 mi. of new alignment, 4.2 mi. of Route 9 without additional improvements</li> <li>Bridge length: 2,232 ft.</li> <li>Earthwork: 2.2 mcy (1.2 mcy cut, 1.0 mcy fill)</li> </ul>	Yes	Yes	In the near-term (Year 2035)	Yes	Yes	Yes	<ul style="list-style-type: none"> <li>Retained for detailed study</li> <li>Wetlands impacts: 34 ac.</li> <li>Stream crossings: 3 (2 with anadromous fish)</li> <li>Floodplain impacts: 15 ac.</li> <li>Notable wildlife habitat: 11.0</li> <li>Undeveloped habitat: 784 ac.</li> <li>Prime farmland: 20.0 ac.</li> <li>Residential displacements: 8</li> </ul>

<http://www.i395-rt9-study.com/DEIS/AppC.pdf>

- Note that Alternative 2B—after being removed from further consideration (twice) before the January PAC meeting—now completely and apparently also retroactively satisfies Purpose and Needs and the reason for dismissal is given as environmental. Not exactly historically correct...and if you look closely, an argument can be made that 2B is less environmentally damaging than 2B-2. Argument is moot since 2B and 2B-2 are near identical alternatives.
- Note the new terminology in the System Linkage column: “In the near-term(Year 2035)”.

### DEIS/Section 404 Permit Application Meeting held on September 21, 2010:



“...another hard look at Route 9.”

“The system linkage need was discussed. With Route 9 having sufficient capacity for the next 20 years, the **system linkage need and need for a limited access facility should be considered a long-term need**. The DOT is committed to the East-West highway vision, and the **system linkage need remains a valid need for this study**. To help clarify when an alternative satisfies the system linkage need for the I-395/Route 9 study, the DOT will **change references** in Chapter 2 Alternatives Analysis and Appendix C Alternatives Considered and Dismissed to ‘**partially satisfies**’ the need to ‘**in the near term**’ (or something similar) and **define ‘near term’ as the year 2030.**”<sup>9</sup>

- 2030 was extended to 2035 in January 2012.<sup>37</sup>

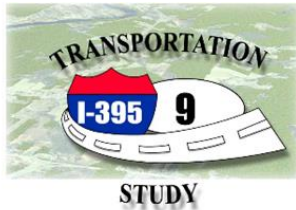
The “In the near-term (Year 2035)” needs, the “20 year design life expectancy of the connector” and the “20 year traffic capacity of Route 9” will overlap in year 2035; can we expect another project sometime after 2035 to repair the deficiencies that are unfortunately a function of alternative 2B-2? What will be the final-end-cost of 2B-2 to not only satisfy the near-term-needs to the year 2035 but also the long-term-needs beyond 2035? Shouldn’t the Purpose and Needs be 100% satisfied at the project onset?

FYI: “Eminent domain, broadly understood, is the power of the state to seize private property without the owner’s consent. The Fifth Amendment to the US Constitution forbids the confiscation of property “without just compensation”, so that anyone whose property is acquired does receive some compensation, however this is decided not be direct negotiation between prospective developer and current owner but by the government agency, which frequently leads to compensation packages that are inadequate.”<sup>38</sup>



## Differences in Study Purpose Safety Statements from Oct2003 to Mar2012:

<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (pg1/6)



I-395/Route 9 Transportation Study  
Penobscot County, Maine  
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October 2003



U.S. Department  
of Transportation  
Federal Highway  
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Maine Department  
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**"The purpose of this study is to:**

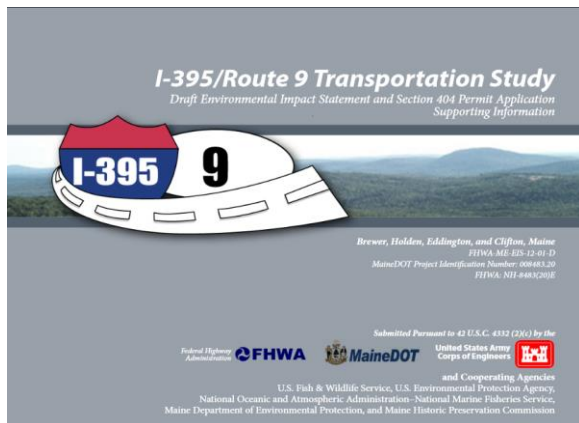
- (1) construct a section of Maine's National Highway System from I-395 to Route 9, consistent with current American Association of State Highway and Transportation Officials (AASHTO) policy on design;
- (2) **improve regional system linkage;**
- (3) **improve safety on Routes 46, 9, and 1A and**
- (4) improve the current and future flow of traffic and shipment of goods to the inter-state system.

*"...alternatives were reevaluated based on a more detailed examination of the study purpose and needs. **Specifically, the eastern logical termini was refined. Alternatives that did not connect to Route 9 east of Route 46 were dismissed from further consideration.**"*

Logical termini define the connection points for the System Linkage Need as further "refined" in this Oct2003 Technical Memorandum.

**NOTE: "...(3) improve safety on Routes 46, 9, and 1A..." (Oct2003)**

<http://www.i395-rt9-study.com/DEIS/00Cov.pdf> (pg5)



**How does the  
DEIS address  
Route 9  
Safety?  
Apparently by  
removing  
Route 9 from  
the 1.2 Study  
Purpose.**

### 1.2 Study Purpose

In 2000, the statement of purpose and need for the I-395/Route 9 transportation study was developed in consideration of existing and projected transportation trends and conditions — and their affect on the mobility and safety of motorists and citizens within the study area and region.

The purposes of the I-395/Route 9 transportation study are to (1) identify a section of the NHS in Maine from I-395 in Brewer to Route 9, consistent with the current American Association of State Highway and Transportation Officials (AASHTO) *A Policy on Geometric Design of Highways and Streets*; (2) improve regional system linkage; (3) improve safety on Routes 1A and 46; and (4) improve the current and future flow of traffic and the shipment of goods to the interstate system.

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.

The segment of highway connecting I-395 to Route 9 would have independent utility as Route 9 would continue to operate with sufficient capacity and at virtually the same operating speed without the need for improvement.

**DEIS 1.2 Study Purpose Safety statement:**  
**"...(3) improve safety on Routes 1A and 46..."**  
Was improved safety on Route 9 intentionally eliminated from the Study and the DEIS 1.2 Study Purpose statement?

**DEIS logical termini:**  
**"...(2) the portion of Route 9 in the study area..."**  
**Logical termini (Oct2003): "...the eastern logical termini was refined...connect to Route 9 east of Route 46..."** morphed into (Jan2012): **"the portion of Route 9 in the study area to satisfy the project purpose and need"** and rephrased in the (Mar2012) DEIS 1.2 Study Purpose as: **"the portion of Route 9 in the study area".**

**Section 1.2 Study Purpose starts off: "In 2000..." Why was the Safety Purpose statement from Oct 2003—that included Route 9—no longer part of the Safety Purpose statement in the Mar2012 DEIS? Has "another hard look at Route 9" further compromised Safety on Route 9 in Eddington?**

## What did the NOI **(Notice of Intent)** say about the “logical termini”?

<http://www.gpo.gov/fdsys/pkg/FR-2005-12-01/pdf/05-23529.pdf> (page 72144/72145)

72144

Federal Register / Vol. 70, No. 230 / Thursday, December 1, 2005 / Notices

Federal Register / Vol. 70, No. 230 / Thursday, December 1, 2005 / Notices

72145

(excerpts of text:)

### DEPARTMENT OF TRANSPORTATION

#### Federal Highway Administration

#### Environmental Impact Statement; I-395/Route 9 Transportation Study; Penobscot County, ME

AGENCY: Federal Highway  
Administration (FHWA), DOT.

ACTION: Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in the towns of Brewer, Holden, Eddington, and Clifton, Maine.

The EIS will examine alternatives to improve transportation system linkage, safety, and mobility between Interstate 395 (I-395), Brewer and State Route 9 (Route 9), Clifton in southern Penobscot County, Maine.

### About Federal Register

Published by the [Office of the Federal Register, National Archives and Records Administration \(NARA\)](#), the Federal Register is the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.<sup>34</sup>

**“...between Interstate 395 (I-395), Brewer and State Route 9 (Route 9), Clifton...”** the NOI was clearly understood for most of the first decade of this study as evidenced by MaineDOT/FHWA’s own definition of System Linkage and logical termini:

**“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.”**<sup>35</sup>

**“...alternatives were reevaluated based on a more detailed examination of the study purpose and needs. Specifically, the eastern logical termini was refined. Alternatives that did not connect to Route 9 east of Route 46 were dismissed from further consideration.”**<sup>36</sup>

Alternative 2B-2s northern connection point is 4.5 miles west of where the majority of the 79+ studied alternatives terminated **“east of Route 46”** (near the Clifton/ Eddington town border). NOI states: **“...proposed highway project in...Clifton...”** and **“...State Route 9 (Route 9), Clifton...”** not 4.5 miles west.

## More FOAA Documents

December 16, 2011

000131

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”.

**“...he questioned the identification of the logical termini.”**

**“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 done with 4-lanes/4-lane ROW”. The majority of the 79+ studied alternatives were analyzed as 4-lane/4-lane ROW and now at the end of NEPA process, 2B-2 is judged as a 2-lane/2-lane ROW.**

**“Mark’s comment the 2-lane/2-lane ROW Preferred Alternative does not satisfy the Purpose and Need...”** (MaineDOT Judy Lindsey December 29, 2013 FOAA Document #000177 available upon request)

**MH’s concerns were overruled by his FHWA superior less than three months before the DEIS was issued!**



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.

**"The NOI...did not use the term "logical termini." The NOI also did not state: "from the west to east through Eddington" as the FHWA (MH) (CM) claimed in FOAA 000394. FOAA000502 below, an email from the MaineDOT (RC) to the FHWA (CM), contains a word-for-word direct quote from the excerpt of the NOI on page 14. Do you see the phrase "from the west to east through Eddington? NO? MaineDOT didn't either but certainly didn't balk at allowing the redefinition of the logical termini (System Linkage) that was accepted for most of the first decade of this Study: "...Route 9 to the east of Route 46".**

From: Charette, Russ  
Sent: Friday, January 20, 2012 3:51 PM  
To: Cheryl.Martin@dot.gov  
Cc: Plumpton, William M.  
Subject: I-395/Route 9 Transportation Study

000501

Hi Cheryl,

Bill Plumpton & I were going over the collective comments on the Administrative Draft EIS and wanted to be sure we were clear on your comment on Page 31 (Chapter 2).

You had highlighted Mark's comment ("Why") on the sentence pertaining to the Logical Termini of the build alternatives. You had added "What did the NOI say".

**"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."**

The following is the section from the EIS notice in the Federal Register.



**DEIS 1.2 Study Purpose: "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."**

**"The EIS will examine alternatives to improve transportation system linkage, safety, and mobility between Interstate 395 (I-395), Brewer and State Route 9 (Route 9), Clifton in southern Penobscot County, Maine."**

000502

**Exactly word-for-word as the published Notice of Intent.**

Is the sentence sufficient as written, or do we need to modify it a bit?

Thanks,

**"...modify it a bit?"**

Russ

**Was the Notice of Intent amended to allow the MaineDOT/FHWA to change the logical termini to basically place it anywhere on "Route 9 in the study area to satisfy the project purpose and need"? It certainly looked like the MaineDOT/FHWA made alternative 2B-2 fit the Study Purpose and Needs. If the NOI didn't need to be amended, what good is the NOI and what good is the Federal Register if government officials can so easily parse words into meaning anything they want them to mean.**

**How did we get from here:**

**"...alternatives were reevaluated based on a more detailed examination of the study purpose and needs. Specifically, the eastern logical termini was refined. Alternatives that did not connect to Route 9 east of Route 46 were dismissed from further consideration."**

<http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> (pg6)

**To here:**

### 1.2 Study Purpose

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.

<http://www.i395-rt9-study.com/DEIS/01Pur.pdf> (pg5)

**You need to understand the significance of what was done: MaineDOT/FHWA decided, based on the fact that the NOI "did not use the term logical termini", they could/would alter Purpose and Needs to make the Study fit alternative 2B-2. FHWA's "west to east through Eddington" statement (a statement that didn't exist) led to the revision of the original "eastern logical termini" criterion requiring a connection on "Route 9 east of Route 46" TO "the portion of Route 9 in the study area to satisfy the project purpose and need" TO "the portion of Route 9 in the study area".**

## Talking Points against the selection of 2B-2 as the Preferred Alternative:

- Alternative [2B-2 only satisfied one \(20%\) of the five Purpose and Needs](#) <sup>10</sup> on April 15, 2009.
- MaineDOT's own words speak volumes: "Judy Lindsey: Yes. [It satisfies Purpose and Need - not what we've been talking about, but it will still do a lot...](#)" <sup>11</sup> and sounds more like a waste of taxpayer's dollars with a short-term band-aid fix which will more than likely end up costing us more in the long run—what will happen after 2035?
- Mark Hasselmann, FHWA Right of Way Program Manager, advised Judy Lindsey, MaineDOT Project Manager, on Dec 13, 2011 that "*the 2-lane/2-lane ROW Preferred Alternative does not satisfy Purpose and Needs...*" and "*Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative will alter impacts and prior analyses is not comparable (apples to apples) as those done with 4-lane/4-lane ROW*". Mark Hasselmann was overruled by his superiors. (Information obtained from FOAA documents <sup>26</sup>)
- MaineDOT has yet to provide substantive evidence that 2B-2 meets Purpose and Needs. Nothing they have provided, which has mostly been the infamous quote: "MDOT took a hard look at Route 9", meets the straight face test. Even with a FOAA request lawsuit by a private citizen, the MDOT still did not provide clear evidence of the reasoning and/or process behind the change where 2B-2 now meets Purpose and Needs.
- The City of Brewer and the Town of Eddington, excluded from the decision-making process, have withdrawn their support from the I-395/Route 9 connector project, supporting only the No-Build option by Resolve in 2012 and 2013.
- [Cumulative effects](#) <sup>12</sup> for alternative 2B-2 include: 26 acres of floodplains, 182 acres of wetlands, 602 acres of forest vegetation, 873 acres of wildlife habitat, and unknown impacts to 4,900 feet of streams from storm-water runoff.
- "*The proposed project is within...designated critical habitat of the [endangered Atlantic salmon](#) <sup>13</sup>...FHWA determines the proposed project may affect, is likely to adversely affect Atlantic salmon and its [critical habitat](#) <sup>13</sup>...*"
- There are 22 properties in Brewer alone, with an appraised value of \$2.25 million, directly impacted by 2B-2. MDOT will have the authority to acquire those properties by Eminent Domain. MaineDOT will [acquire 163 acres](#) <sup>14</sup> per the DEIS. Alternative 2B-2 will have a significant negative impact on many residential properties. Alternative 2B-2's residential displacement is 4 times that of the previous preferred alternative. ([8 residential displacements](#) <sup>15</sup>) [Annual tax revenue would decrease](#) <sup>31</sup> by approximately \$37,000 in Brewer, \$17,800 in Eddington and \$7,200 in Holden; that does not include the loss of revenue from devalued homes and properties in close proximity to the connector.
- Alternative 2B-2's proximity displacement (buildings within 500' of the edge of roadway) is 7.9 times that of the previous preferred alternative—largest amount by far of all the 79+ studied alternatives. ([190 proximity displacements](#) <sup>16</sup>) After studying 79+ alternatives, the MaineDOT/FHWA have decided to site this connector within the most populous segment of the Study area.
- Regulations guaranteeing vernal pool inhabitants a 750' buffer have altered the study outcome without consideration for the human element—regulated only by Eminent Domain. Humans abutting the right-of-way are not considered directly impacted.
- "*However, future development along Route 9 in the study area [can impact future traffic flow and the overall benefits of the project](#).*" <sup>29</sup> Whether this project is a success or failure depends on the [MaineDOT approving or disapproving the access to Route 9](#) <sup>30</sup> required for any future project in Eddington—especially on the 4.5 miles of Route 9 that is an integral part of 2B-2. Many say that the 2B-2 alternative is a death sentence for future growth in Eddington.



- Future 4-lane-divided-highway [upgradability](#) <sup>17</sup>, part of the original criteria, was discarded by October 2011 in a decision to purchase right-of-way only large enough (approximately 200 feet) to support 2-lanes of traffic; a change applicable only to the last 3 remaining alternatives in consideration and not the other 79+ studied alternatives.
- The MaineDOT may have already further downgraded the right-of-way from 200 feet to 100 feet in August 2011; a change applicable only to the last 3 remaining alternatives and not the other 79+ studied alternatives. (FOAA)
- The MaineDOT plans to further downgrade the design standard from freeway criteria to rolling criteria following the conclusion of the NEPA process; a change applicable only to 2B-2 and not the other 79+ alternatives. (FOAA)
- An October 2003 MaineDOT/FHWA/ACOE Technical Memorandum indicated safety concerns with that same 4.5 mile section of Route 9 that now supports alternative 2B-2: "*Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new [safety concerns and hazards](#) <sup>18</sup>.*" AND "*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](#) <sup>19</sup>...*"
- TRIP reports that [33% of Maine's bridges](#) are rated structurally deficient or functionally obsolete <sup>20</sup> AND [33% of Maine's roads](#) are rated as poor to mediocre. <sup>20</sup>
- "*Even with this new \$100 million bond, the highway and bridge programs at the state still face a [shortfall of about \\$110 million](#) <sup>21</sup> per year.*" (Action Committee of 50 special to the BDN.) The MaineDOT 2014-2015-2016 Work Plan acknowledges a "[funding shortfall of about \\$100 million per year](#)". <sup>32</sup>
- "*DOT's long-range plan published in 2010 identified approximately [\\$3.0 billion in unmet capital need](#) <sup>21</sup> over the next decade.*" (Action Committee of 50 special to the BDN.) That's \$3,000 million, folks!!
- The \$61 million in state and federal funds that can be saved by terminating the I-395/Route 9 Transportation Study would be better spent on the [unmet transportation needs](#) of our state now and over the next decade.



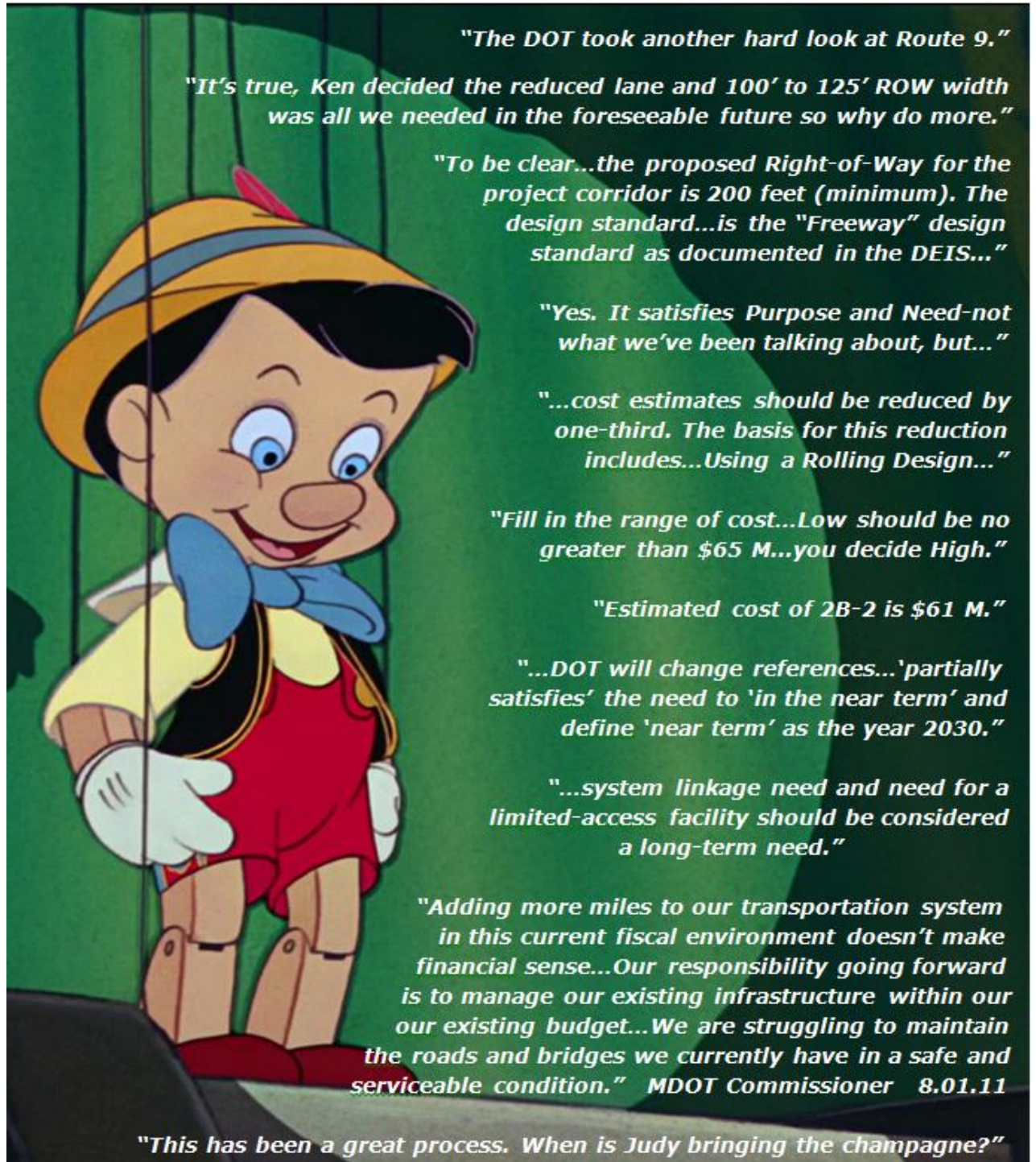
**Without any thought of seeking participation from the PAC or the private citizens and governing leaders of the impacted communities, MaineDOT and the FHWA surreptitiously made the determination (devoid of public scrutiny) that the System Linkage Need and the need for a limited access facility—as established over the majority of the previous ten years of the Study—were to be considered long-term needs until an unspecified time beyond the year 2035.**

**Don't let the MaineDOT/FHWA claim they have not changed Study Purpose and Needs:**

1. Eliminated upgradability option for future full four-lane divided highway.
  2. Redefined the System Linkage Need to a long-term need beyond the year 2035.
  3. Redefined the need for a limited-access facility to a long-term-need beyond the year 2035.
  4. Redefined logical termini from "*east of Route 46*" to "*the portion of Route 9 in the Study area*".
  5. Deleted Route 9 from the DEIS 1.2 Purpose statement: "*(3) improved safety on Routes...*"
  6. Downgraded DEIS-stated "*design criteria for freeways*" to "*rolling criteria*". (FOAA)
  7. Reduced ROW from the DEIS-stated "*200-foot-wide*" to "*100' to 125' ROW width*". (FOAA)
- How many other changes have been made to this project that we are just not aware of yet?

## And just for fun:

This cartoon is in the public domain. All quoted remarks are from MaineDOT documents obtained from MaineDOT maintained websites and FOAA requests. All quotations are from MaineDOT officials (public and private) with the exception of the insensitive champagne remark by an EPA official.<sup>22</sup> The nose significance is obvious, but who is working the strings? That's the real question...





- **System linkage is just one of three Study Needs.** In October 2003, [MaineDOT proclaimed](#)<sup>23</sup>: "[Traffic congestion](#)"<sup>24</sup> and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new [safety concerns](#)"<sup>24</sup> and hazards." That's the same 4.5 mile section of Route 9 that now supports 2B-2. I strongly assert that 2B-2 does not meet any of the three Study Needs; a sad commentary on a \$61+ million project when the state can't afford to fix our existing failing infrastructure.
- **What is the cost of safety?** "Joan Brooks asked how safety is viewed in comparison to wetlands. Bill said that safety was defined at the beginning of the study as the elimination of crashes. Other aspects of safety certainly exist but were not part of the study's definition. As far the agencies are concerned, [the DOT and FHWA define safety as the elimination of crashes](#)." <sup>25</sup> That 4.5 mile section of Route 9 ("[without additional improvement](#)")<sup>24</sup> is an essential part of 2B-2; the [latest Route 9 fatality](#)"<sup>33</sup> begs to question why the MaineDOT/FHWA would still consider construction of any alternative utilizing Route 9 when the intent of the original Purpose and Needs was to bypass that specific section of highway. In an effort to cut construction costs—was safety compromised? Alternative 2B-2 does absolutely nothing to improve the safety of that specific section of Route 9 and 2B-2 cannot possibly eliminate similar fatal crashes in the future. The MaineDOT and FHWA have an opportunity to improve safety within the whole Study area to include Route 9 and for some reason they balk at taking it. In my opinion—the MaineDOT/FHWA "hard look" was a rush to judgment to coronate alternative 2B-2; the decision makers in this Study have failed miserably on the deliverable they were tasked to provide back in the year 2000.

Building the 2B-2 alternative "[would negatively affect local access](#)"<sup>27</sup>, "[would negatively affect people](#)"<sup>28</sup> and "[would severely impact local communities](#)"<sup>28</sup>. MaineDOT/FHWA officials continue to pay no attention to the resolves in 2012 and once again in 2013 from both Brewer and Eddington withdrawing project support in favor of the NO-BUILD option. Don't allow the MaineDOT/FHWA to hide these and other highly-damaging-historical-facts in the back of some book ("as we avoid drawing unnecessary attention to them" <sup>26</sup>) because they don't promote MaineDOT/FHWA's preferred alternative.



**2B-2 will cost \$61,000,000.00**

**SUMMARY:** In the 14<sup>th</sup> year of this Study—with an expenditure of close to \$2.5 million—MaineDOT/FHWA have selected 2B-2 as their preferred alternative—an alternative nearly identical to the 2B alternative removed from further consideration (twice) before the January 2003 PAC meeting—an alternative that met one (20%) of five Purpose and Needs in April 2009—an alternative that the MaineDOT/FHWA decided after ten years into the Study no longer needs to meet the still valid System Linkage Need and the need for a limited-access facility until an unspecified time subsequent to 2035.

[33% of Maine's bridges](#)<sup>20</sup> are rated structurally deficient or functionally obsolete and [33% of Maine's roads](#)<sup>20</sup> are rated as poor to mediocre. Our new 2014-2015-2016 Work Plan states: "[MaineDOT's core highway and bridge programs still face a funding shortfall of about \\$100 million per year, being about 29%](#)."<sup>32</sup> Cancelling 2B-2 will allow the reallocation of critical funds—that \$61 million would be better spent on the unmet transportation needs of the state of Maine.

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- Note<sup>3</sup>: [http://www.i395-rt9-study.com/Pubs/PAC041509\\_summary.pdf](http://www.i395-rt9-study.com/Pubs/PAC041509_summary.pdf) page 4
- Note<sup>4</sup>: <http://www.i395-rt9-study.com/DEIS/00Sum.pdf> pages s12-s13 and s15-s18
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- Note<sup>6</sup>: <http://www.i395-rt9-study.com/Pubs/EA%2003-12-02.pdf> page 1
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- Note<sup>8</sup>: Document available upon request - URL link unavailable
- Note<sup>9</sup>: <http://www.i395-rt9-study.com/Pubs/FCA%2009-10a.pdf> page 2
- Note<sup>10</sup>: [http://www.i395-rt9-study.com/Pubs/PAC041509\\_handouts.pdf](http://www.i395-rt9-study.com/Pubs/PAC041509_handouts.pdf) Purpose and Needs Matrix page 5
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- Note<sup>13</sup>: [http://www.i395-rt9-study.com/Pubs/USFWS\\_Submittal\\_1-29-2013.pdf](http://www.i395-rt9-study.com/Pubs/USFWS_Submittal_1-29-2013.pdf) page 1
- Note<sup>14</sup>: <http://www.i395-rt9-study.com/DEIS/00Sum.pdf> page 16
- Note<sup>15</sup>: <http://www.i395-rt9-study.com/DEIS/00Sum.pdf> page 16
- Note<sup>16</sup>: <http://archive.bangordailynews.com/2004/07/29/eddington-leaders-urge-connector-plan-support/?ref=search>
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- Note<sup>18</sup>: <http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> page ii
- Note<sup>19</sup>: <http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf> page 21
- Note<sup>20</sup>: [http://www.tripnet.org/docs/ME\\_Top\\_50\\_Transp\\_Challenges\\_TRIP\\_Report\\_Oct\\_2013.pdf](http://www.tripnet.org/docs/ME_Top_50_Transp_Challenges_TRIP_Report_Oct_2013.pdf) page 8/9
- Note<sup>21</sup>: <http://bangordailynews.com/2013/10/31/opinion/get-moving-on-improvements-to-maine-roads-and-bridges/?ref=relatedSidebar> paragraphs 4/5
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