

A \$32.24 million disparity exists in 2B-2's FEIS-stated-cost:

MaineDOT Interagency Meeting
October 11, 2011

"Roadway is designed to freeway criteria – 70
mph design speed, posted for 55 mph."

Project Cost: Considering preliminary, recently received information from sub-consultant to incorporate the cost of right-of-way and utilities.


2B-2 - \$90M

5A2B-2 - \$120M (due to two crossings over the railroad at difficult skew)

5B2B-2 - \$105M (due to longer length of project alignment)

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

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

Oct. 11th 2011: "designed to freeway criteria" \$90M 

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

FOAA#000392 is an attachment to FOAA #000391 dated December 6th 2011.

*"This cost estimate for the build alternatives
was prepared using the DOT's freeway criteria."*

<http://i395rt9hardlook.com/emails-documents-and-articles-oh-my/foaa-discoveries/>

Dec. 6th 2011: "prepared using the DOT's freeway criteria." \$93,240,000.00 

FOAA # 000431 "...designed...using MaineDOT's criteria for freeways."

"...latest estimate...dated December 2011 ... approximately \$93 million for Alternative 2B-2..."

Jan. 30th 2012: "designed using MaineDOT's freeway criteria." approx. \$93M 

<http://i395rt9hardlook.com/emails-documents-and-articles-oh-my/foaa-discoveries/>

FEIS-stated-cost and FEIS-stated-design criteria:

2.4.3 Estimated Construction Costs

As part of the conceptual design of the build alternatives, a preliminary estimate of the cost to construct them was prepared (in 2011 dollars). The cost to construct the build alternatives ranges from \$61 million to \$81 million.

2.3.2 Alternative 2B-2

2B-2/the Preferred Alternative would be a controlled access highway and conceptually designed using 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. http://www.i395-rt9-study.com/Pubs/FEIS_Chap2.pdf (page 27 and 36)

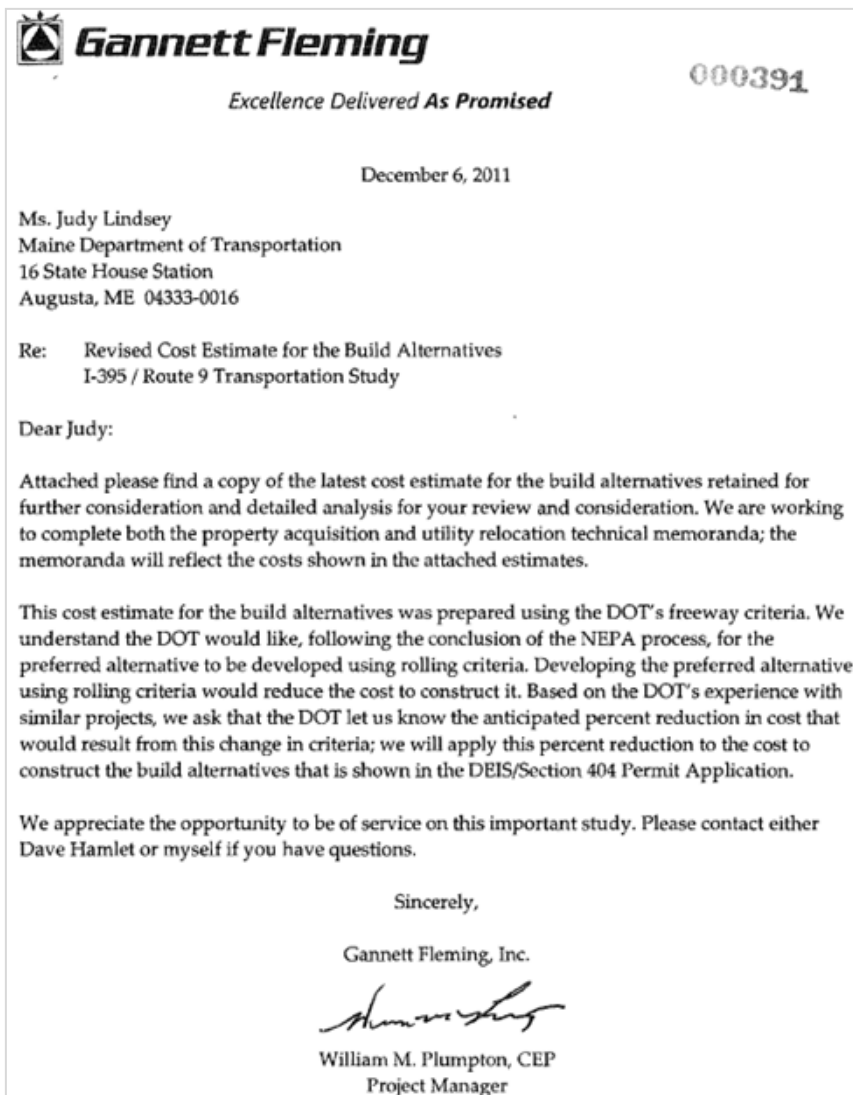
Jan. 2015: "designed using MaineDOT design criteria for freeways." \$61 million 

A reduced FEIS-stated-cost that does not match the FEIS-stated-design criteria and in fact is based on a future design change only applicable to 2B-2 and only “following the conclusion of the NEPA process”:

The FEIS-stated construction cost of \$61 million is based on a future design change to rolling criteria not the FEIS-stated “*MaineDOT design criteria for freeways.*” Now how can that be? **The cost in the FEIS does not match the design criteria in the FEIS.**

- 2B-2’s cost has been misrepresented for the past 3 years, making 2B-2 appear to be more reasonably priced than it is, by \$32.24 million; a great talking point as there can be no other rational explanation and is extremely unfair to the impacted communities who only seek fairness and honesty in the process.
- Knowingly making a false entry in a government document, with the intent that it be taken as a genuine part of information is in violation of the following Maine State Statute: <http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec456.html>

FOAA #000391, a future downgrade in design criteria only to 2B-2:



“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.”


<http://i395rt9hardlook.com/emails-documents-and-articles-oh-my/foaa-discoveries/>

FOAA #000431, a one-third reduction in cost based on a change in criteria from freeway to rolling design only applicable to 2B-2, yet the FEIS-stated-design is “*design criteria for freeways*”:

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.”

The latest estimate to construct the build alternatives dated December 2011 range from approximately \$93 million for Alternative 2B-2...”


“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...”

<http://i395rt9hardlook.com/emails-documents-and-articles-oh-my/foaa-discoveries/>

AND, one more change to a study that has no changes:

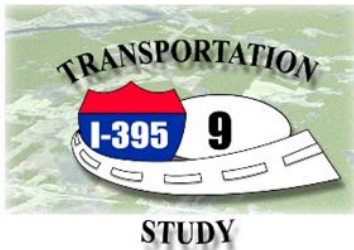
MaineDOT Interagency Meeting
October 11, 2011

Bill Plumpton: Last time we met, December 2010, Page 2 of the handout – Design criteria has been consistent throughout the years with one exception, that is, the shoulder width has been reduced from 10' to 8'. Roadway is designed to freeway criteria – 70 mph design speed, posted for 55 mph. The proposed Typical Section is two - 12' travel lanes, 8' shoulders, with standard cut and fill treatment.  **Change** made to typical section since our last meeting, the project considered having two lanes of highway constructed within right-of-way sufficient to accommodate four lanes in the future. That has now **changed** to two lanes of highway within right-of-way that accommodates two lanes but does not accommodate four lane construction in the future.

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

The transition of the System Linkage Need; remember you have been told that the Study Purpose and Needs have not changed:

Pre-September 2010:



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

- *“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.”*

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

Post-September 2010:

I-395/Route 9 Transportation Study DEIS/Section 404 Permit Application
Meeting with Cooperating Agencies

September 21, 2010

Minutes of Meeting

*“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.”*

<http://www.i395-rt9-study.com/Pubs/FCA%2009-10a.pdf>

FEIS-January 2015:

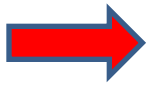
*“Alternative 2B-2/the Preferred Alternative would further the study’s purpose and **satisfy the system linkage need in the near term (before 2035).**”*

http://www.i395-rt9-study.com/Pubs/FEIS_Chap2.pdf

Where are we in the study?

The study can be broken into seven general steps as shown on the MaineDOT's I-395/Route 9 Transportation Study website:

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



Step
5

Circulate the FEIS

[Close \[X\]](#)

MaineDOT and the FHWA will distribute the FEIS for review. The FEIS will be available during the 'wait period' for a minimum of 30 days before the Record of Decision is issued.

- We are currently in the 'wait period' until March 2, 2015.

Step
6

Record of Decision

[Close \[X\]](#)

FHWA will prepare and distribute a [Record of Decision \(ROD\)](#) for the study. The ROD is the final step in the EIS process. The ROD identifies the selected alternative, presents the basis for the decision, identifies the alternatives considered, specifies the "environmentally preferable alternative," and provides information to avoid, minimize and compensate for environmental impacts.

Step
7

Next Steps

[Close \[X\]](#)

Initiate final engineering design, complete applications and receive permits, and other next steps. Following the ROD, MaineDOT and the FHWA can proceed with the initiation of final engineering design, the completion of permit applications, the acquisition of property, and construction. As this process could take several years to complete, as part of final engineering design, MaineDOT and the FHWA would work with the towns to develop a plan to protect the corridor of the selected alternative, including the area of its intersections and interchanges, from further development.

- "...this process could take **several years** to complete..."

Near-term System Linkage Need:

"Alternative 2B-2/the Preferred Alternative would further the study's purpose and satisfy the system linkage need in the near term (before 2035)."

http://www.i395-rt9-study.com/Pubs/FEIS_Chap2.pdf

The above statement of fact from Chapter 2, page 26 of the FEIS is no longer accurate for the entire 20 year design-life of the project.

- I take it literally, that (before 2035) is December 31, 2034.



“Hard Look V2.0” has already timed out...

On January 11th 2012, the original Sept. 21st 2010 “hard look” was reset. Forecasts/analyses were revised from the year 2030 to the year 2035.

- The base year of the 20-year design was changed from 2010 to 2015.
- The System Linkage Need revision: “In the near-term (Year 2035)” allowed 2B-2 to “appear” to satisfy the System Linkage Need for the 20 year design life of the project; but time marches on and one has to wonder what the passing of time will do to 2B-2 and the “*hard look at Route 9*” argument...

State of Maine Department of Transportation MEMORANDUM

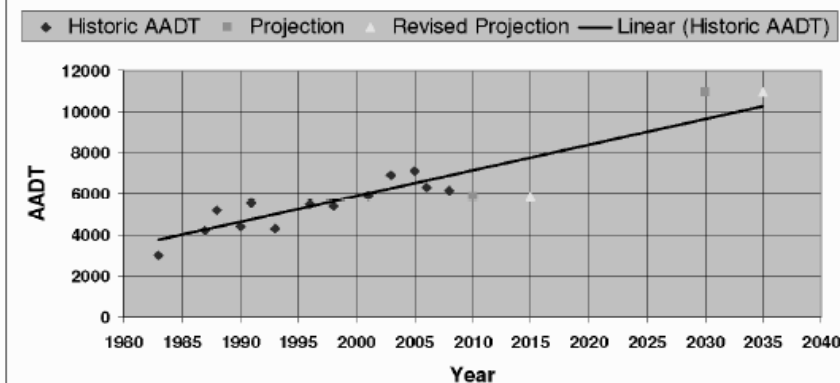
To: Russ Charette, Mobility Management Date: Jan. 11, 2012
From: Ed Hanscom, Transportation Analysis
Subject: I-395/Route 9 Transportation Study – Revised Projections

Given that the current design-year projection for the I-395/Route 9 Transportation Study is currently 2030 and the anticipated construction of the preferred alternative is unlikely until the 2013-15 time period, consideration has been given to extending the design-year to 2035. The 2035 design year would be consistent with a 20-year design for the project.

Review of historic traffic growth on Route 9 east of Route 46 indicates that the volumes currently projected for 2030 would more accurately represent conditions in 2035. (See figure below.) The flattening in traffic growth that occurred between 2001 and 2008 has slowed the overall growth trend of traffic in the Route 9 corridor. The forecasted traffic volume for the future (10940 vehicles per day) at this key location is much closer to the trend line at 2035 than at 2030.

Therefore, for the purpose of the I-395/Route 9 Transportation Study, I would suggest that the year of the future conditions traffic forecasts and analyses be revised from 2030 to 2035 and that the base year of the 20-year design be changed from 2010 to 2015. The completed future conditions traffic forecasts and analyses of the study remain valid for 2035 design year.

Route 9 east of Route 46



Revision 2030 to 2035.docx2/5/13

“Alternative 2B-2/the Preferred Alternative would further the study’s purpose and satisfy the system linkage need in the near term (before 2035).”

FEIS, Chapter 2 Page #26

Consider the “*hard look*” as two non-moving parts: “in the near-term (before 2035)” set to December 31, 2034, and the design life of the roadway set to 20 years. The only moving part is the date of the ribbon-cutting ceremony.

To “*satisfy the system linkage need in the near-term (before 2035)*”; add 20 years (the design life of the roadway) to the ribbon cutting date. You cannot and must not exceed the (before 2035) 12.31.2034 set-date; each day exceeding that set-date is just one more day that this project does not and cannot meet the System Linkage Needs, even when changed to “*in the near-term (before 2035)*”. The fact is the “*hard look*” talking point is no longer a valid argument.

Examples of completion dates vs. near term (before 2035):

Step
7

Initiate final engineering design, complete applications and receive permits, and other next steps.

Following the ROD, MaineDOT and the FHWA can proceed with the initiation of final engineering design, the completion of permit applications, the acquisition of property, and construction. As this process could take several years to complete, as part of final engineering design, MaineDOT and the FHWA would work with the towns to develop a plan to protect the corridor of the selected alternative, including the area of its intersections and interchanges, from further development.

 **“As this process could take several years to complete...”**

several  [sev'ər əl, sev'rəl]

Use **several** in a sentence

adjective

1. The definition of several is more than two but a small number, or separate people or things.

a. An example of several is a group of four people.

b. An example of several is five dogs standing apart from each other.

pronoun

1. Several is defined as a small, undefined number that is greater than two.

An example of several is five people leaving early; several left early.

YourDictionary definition and usage example. Copyright © 2014 by LoveToKnow Corp

“Alternative 2B-2/the Preferred Alternative would further the study’s purpose and satisfy the system linkage need in the near term (before 2035).”

<http://www.yourdictionary.com/several>

Example, using 2 to 5 years out from ROD to project completion:

Mar. 2 nd 2015	earliest possible signing of the Record of Decision
Mar. 2 nd 2017	2B-2’s ribbon cutting ceremony 2 years after ROD
Mar. 2 nd 2018	2B-2’s ribbon cutting ceremony 3 years after ROD
Mar. 2 nd 2019	2B-2’s ribbon cutting ceremony 4 years after ROD
Mar. 2 nd 2020	2B-2’s ribbon cutting ceremony 5 years after ROD
Dec.31 st 2034	“satisfy the system linkage need in the near term (before 2035)”
Mar. 2 nd 2037	2B-2’s 20 year design life completed in 2017 (*26 months)
Mar. 2 nd 2038	2B-2’s 20 year design life completed in 2018 (*38 months)
Mar. 2 nd 2039	2B-2’s 20 year design life completed in 2019 (*50 months)
Mar. 2 nd 2040	2B-2’s 20 year design life completed in 2020 (*62 months)

*Total elapsed time in months that 2B-2’s 20 year design life exceeds “the system linkage need in the near term (before 2035).” 2B-2 does not satisfy the near term or the long term System Linkage Need for the period of time exceeding 12.31.2034 (before 2035), thus, 2B-2 does not meet the Study Purpose and Needs for the entire design life of the project.

“...Preferred alternative does not satisfy Purpose and Need...”

FHWA co-manager of this Study (MH) had concerns that the preferred alternative (2B-2) did not meet Purpose and Needs with the changes made in design criteria at the end of 2011; he brought those concerns to the attention of the MaineDOT project Manager (JL) on Dec. 13th 2011. The history of this event is documented in FOAA #0128 thru FOAA #0132, FOAA #0177 and FOAA #0178 received by the Town of Eddington, not until March of 2013:

000131

December 16, 2011

To: Herb Thomson and Ken Sweeney
From: Judy Lindsey

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

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

- 1) What are the long and short term needs of Route 9?
If there are needs not discussed in the AD DEIS there is a big piece of the documentation missing.
If there are any Route 9 improvements required in the next 5 years they are considered as indirect impacts as such he questioned the identification of the logical termini.
- 2) **Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative will alter the impacts and prior alternatives analyses is not comparable (apples to apples) as those were done with 4-lanes/4-lane ROW. Mark stated he "expects to discuss this issue in the near future".**

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

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

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

"NEPA analysis w/ footprint change
12/14/2011 03:29 PM
We are preparing an EIS and are currently reviewing the administrative draft of the DEIS. For the last five years we analyzed impacts for many (too!) five to ten mile long, new alignment, 250' ROW, controlled access, build alternatives. We have even identified a 'preferred alternative", with the caveats that go with that. Two lanes would be constructed initially, as a "super 2", one barrel of the four-lane version and reserve the remaining ROW, building out the other two lanes when needed.

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

“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.”

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

The eastern logical termini: “Route 9 east of Route 46” was changed to: “the portion of Route 9 in the study area” in January 2012.

000132

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

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

FOAA Documents can be viewed in their entirety:

<http://i395rt9hardlook.com/wp-content/uploads/2014/02/Woodshed.pdf>

December 29, 2011

000177

To: File

From: Judy Lindsey

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

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

Procedural Steps

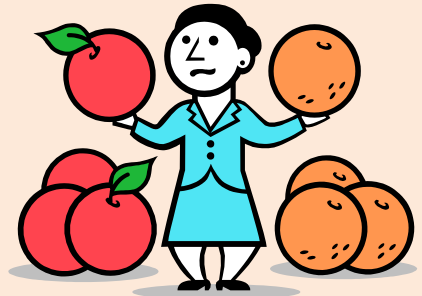
1. Meeting between Ken and Cheryl Martin to discuss Mark Hasselmann's comments on the Administrative Draft DEIS
 - Mark's comment the 2-lane- 2-lane ROW Preferred Alternative does not satisfy the Purpose and Need (I disagree with this comment as the PA satisfies both the NEPA Purpose and Need as well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

Discussion items

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

“Mark’s comment the 2-lane/2-lane ROW Preferred Alternative does not satisfy the Purpose and Need...”

“...Mark has stated as the alternatives will move forward as a 2-lane/2-lane the analysis is now apples to oranges comparison.”



“They both weren’t troubled by his dissenting remarks because they said that his superior at FHWA had overruled him.”

000178

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

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

(MH) was overruled by his superiors as verified in the same April 8th 2013 email from the Office of Senator Collins. This issue is extremely important since Mr. Hasselmann was and still is the Co-Manager of this Study. This occurred within 90 days of the issuance of the DEIS in the 12th year of this Study. This whole process has really been deplorable and this is just another example; I believe Mr. Hasselmann was attempting to do his job to the best of his abilities in December of 2011 and was squelched in his attempt, for reasons unknown.