Comments in opposition to the inclusion of PIN 018915.00—Brewer-Eddington I-395/Route 9 Connector in the 2014-2017 State Transportation Improvement Program (STIP)

Larry Adams
Brewer, Maine
September 4, 2015

ATTN: Mr. Ben Condon
Maine Department of Transportation
Bureau of Transportation Systems Planning
16 State House Station
Augusta, Maine 04333-0016

Subject: Comments in opposition to STIP PIN 018915.00, I-395/Route 9 Connector

September 4, 2015

I reject the inclusion of PIN 018915.00 into the 2014-2017 STIP. I am no longer naïve enough to believe my comments will be read, let alone believe any answers will be forthcoming. The MaineDOT has successfully controlled the conversation, determined by what the MaineDOT alone deems as substantive, discarding the rest—however—that does not minimize the validity of the truth—the facts I present today are in the words of MaineDOT/FHWA Transportation Professionals over the first near-decade of this study.

The first 9+ years of documentation on MaineDOT's own I-395/Route 9 Transportation Study website has been ignored. The Oct2003 MaineDOT/FHWA/ACOE Technical Memorandum documents the first 17 PAC meetings leading to the May 2003 selection of 3EIk-2 and No-build for further studies, and fully documents the reasons for removing 2B from further consideration in Jan2003. Since 2B-2 is identical to 2B, any deficiency associated with 2B in 2003 pertains to 2B-2 in 2015—including Route 9's shortcomings.

To continue to ignore the past; to continue to ignore the questions and concerns of private citizens; to continue to keep duly elected municipal officials out of the decision-making process; to continue to promote an alternative (2B-2) that satisfied only 20% of Purpose and Needs in Apr2009 when MaineDOT's own documentation asserts: "Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards." and to ignore forewarnings from your own engineers that using this section of Route 9: "… would negatively affect people living along Route 9 in the study area…would severely impact local communities along Route 9 between proposed alternative connection points and Route 46." at a time when we cannot even afford to maintain our existing roads and bridges while facing escalating transportation budget shortfalls is worrisome at best.

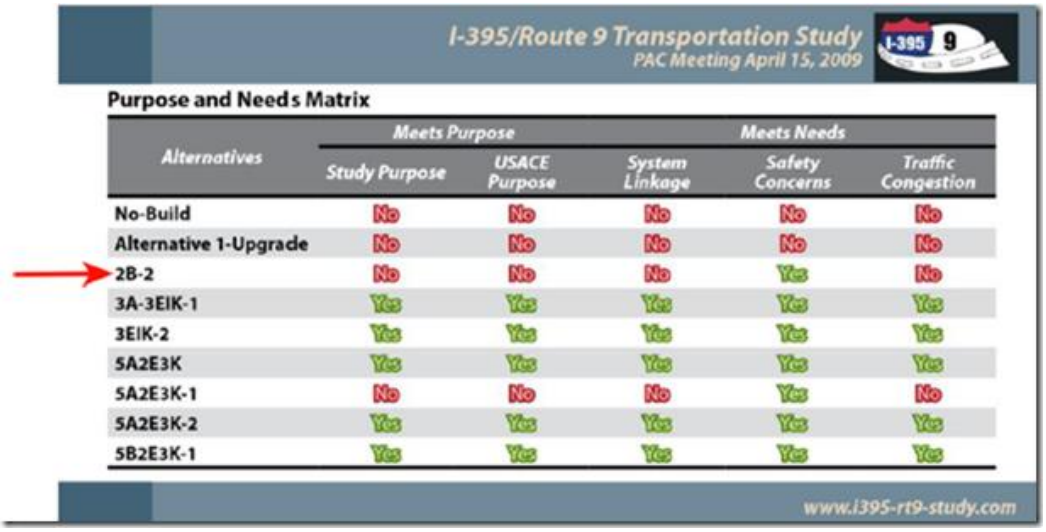
These same concerns have been echoed to a myriad of state/federal offices and were the basis to questions that I submitted to the DEIS, only to go unanswered. No one seems to care, as it's more effective to simply ignore the opposition; no one will offer a coherent response without either parsing words or speaking in governmentese. Maine is facing escalating transportation shortfalls; the MaineDOT should refocus all their efforts and recommit all new project funding solely to the unmet transportation needs of this state.

I contend, in the process leading up to and including the selection of 2B-2 ending with the FEIS publication, (1) the NEPA process was intentionally sidestepped and (2) in turn violated Maine State Statute Title 17A, Chapter 19, §456—specifically the fact that the DEIS/FEIS-stated cost is not based on the DEIS/FEIS-stated design in the <u>same</u> document. Those are two substantive charges that need to finally be addressed.

Comments to: Notice of Availability for Public Comment
STIP: PIN 018915.00–Brewer-Eddington, I-395/RT.9 Connector
Larry Adams—Brewer resident—September 4, 2015

It may seem like a futile effort to comment on a predetermined check in a box, when the MaineDOT has demonstrated time and again their intent to push forward no matter what private citizens and their municipal leaders say. I continue in the hope that someone finally comprehends that significant safety issues exist with 2B-2. Like my comments to the DEIS, I predict that everything said in opposition—again—will be deemed as not-substantive-for-further-comments and hidden, unanswered in the back of the book: "This way the submissions are acknowledged as received and reviewed and we avoid drawing unnecessary attention to them." (FOAA #001097, page 544).

To start, one only has to view MaineDOT's Purpose and Needs matrix dated April 15, 2009; doesn't that make you want to ask: how did an alternative satisfying only 20% of Purpose and Needs become the preferred alternative of a $61 million project? One might suspect that the study criteria changed…



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

Purpose and Needs Matrix

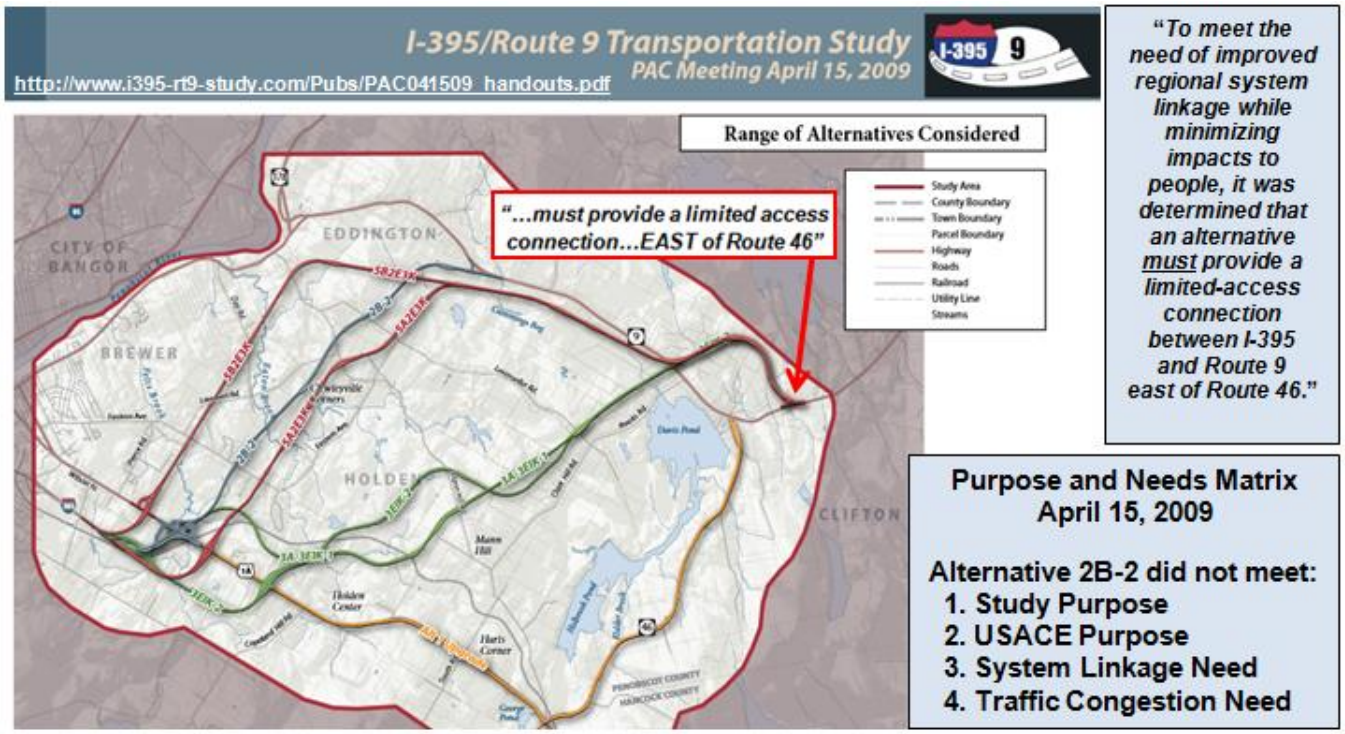
Alternatives	Meets Purpose		Meets Needs		
	Study Purpose	USACE Purpose	System Linkage	Safety Concerns	Traffic Congestion
No-Build	No	No	No	No	No
Alternative 1-Upgrade	No	No	No	No	No
2B-2	No	No	No	Yes	No
3A-3EIK-1	Yes	Yes	Yes	Yes	Yes
3EIK-2	Yes	Yes	Yes	Yes	Yes
5A2E3K	Yes	Yes	Yes	Yes	Yes
5A2E3K-1	No	No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

www.i395-rt9-study.com

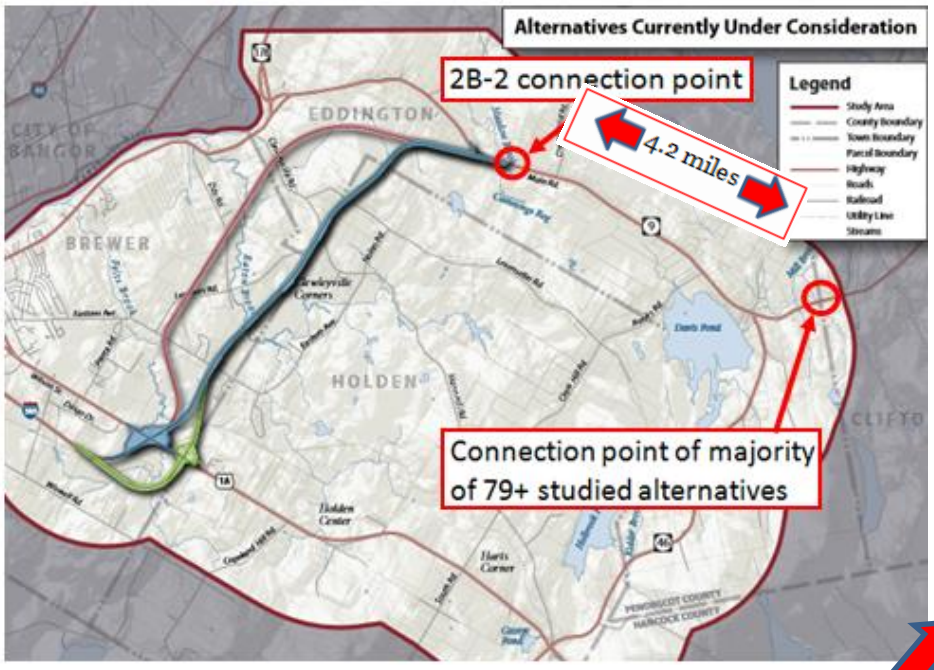
"Alternative 2B would use approximately 5 miles of Route 9. Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards."

2B-2 only satisfied 20% (1 in 5) of Purpose and Needs in April 2009, although Oct2003 Technical Memorandum forewarned: "this section of Route 9 would substantially increase the potential for new safety concerns and hazards"; a good argument that 2B-2 couldn't possibly meet the Safety Concerns Need. By Sept2010, in study's 10th year, significant design criteria was downgraded and 2B-2 magically became the new preferred alternative at the same time that 3EIK-2, the first MaineDOT/FHWA preferred alternative, and 4 other alternatives meeting 100% of the Purpose and Needs on the same Apr2009 Purpose and Needs Matrix were removed from further consideration.

System Linkage Need for the first 9+ years of study: MUST provide a limited-access connection between I-395 and Rte. 9 EAST of Rte. 46.



Route 9's (EAST of Route 46) connection was shifted 4.2 miles WEST by Sept2010 based on MaineDOT's "hard look at Route 9".



http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf

Route 9's 4.2 mile segment, with 5 posted speed limit changes (35 to 50 mph) and 158 separate and distinct access points, decreases the efficiency of a facility that should have provided constant speed, direct access to the east of Route 46 with zero existing added access points.

"Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards."

System Linkage Need (pre-Sept2010):

Not only does the MaineDOT/FHWA/USACE Technical Memorandum dated October 2003 clearly state what was expected for an alternative to satisfy the System Linkage Need, it also gives a glimpse of what can be expected by NOT following this criteria:

- "Prior to the eleventh PAC meeting on February 20, 2002, the system linkage need was examined in greater detail to further aid in reducing the number of preliminary alternatives. To meet the need of improved regional system linkage while minimizing impacts to people, it was determined that an alternative must provide a limited-access connection between I-395 and Route 9 east of Route 46."

What is expected if Rte. 9's connection is WEST of Rte. 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."

Does MaineDOT really want their epitaph to read "would negatively affect people" and "would severely impact local communities"?

"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."

4.15.2009 PAC Meeting.

Any deficiency existing now or in the 20 year design life of 2B-2 on the existing not-to-be-improved 4.2 mile section of Route 9, an integral 40.8% section of the overall length of 2B-2, is a deficiency and/or failure of the whole connector. 2B-2 will be commissioned with 158 separate and distinct access points and at least 5 changes in posted speed limits.

System Linkage Need (post-Sept2010):

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

September 21, 2010

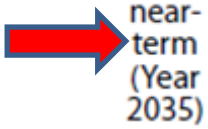
- The DOT has taken a hard look at the capacity of Route 9:
  - Route 9 has sufficient capacity to accommodate the anticipated traffic volumes at a reasonable speed for the next 20 years, with the possible exception of the intersection at Route 9/46.
- The system linkage need was discussed. With Route 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

"...the system linkage need and need for a limited access facility should be considered a long-term need."

"...system linkage need remains a valid need for this study."

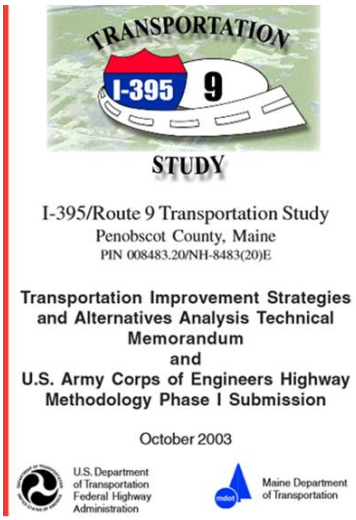
But, not until 2040!



"...the DOT will change references...'partially satisfies' the need to 'in the near term' (or something similar) and define 'near term' as the year 2030". 2B-2 "appears" to satisfy system linkage even though it clearly doesn't as it connects west of Rte. 46; that is how you take a 20% alternative to 100%—it was all too easy!

The FEIS-design-year may have already been extended post-FEIS from 2035 to 2040, as I expand upon in this document; one may expect that long-term starts 12.31.2039, so you can see that $tens of millions will have to be spent in your grandkid's future to satisfy 2B-2's long-term system linkage need and the need for a limited-access facility; a need that could simply be satisfied from the onset by the selection of an alternative that actually satisfied the original system linkage need for a connection on Route 9 to the EAST of Route 46. This future expenditure is only necessary with an alternative, such as 2B-2, using Route 9 as an integral part of the overall alternative. Any of the 79+ studied alternatives, including the previous preferred alternative and the four other alternatives removed from further consideration in Sept2010, satisfying the original system linkage need would not have this long-term issue, since that specific 4.2 mile section of Route 9, now an integral section of 2B-2 (40.8%), was intentionally bypassed by the criteria of an East of Route 46 connection.

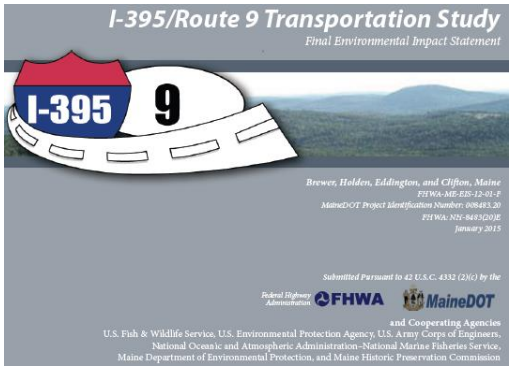
"Joan Brooks commented that one of the requirements of the study is to create a limited access facility....Ray added that recent legislative policy instructs DOT to limit access on most major arterials in the state. The idea is to increase efficiency and reduce costs." (PAC Meeting #8 dated 7.18.2001) IF the intent was—to limit access—starting off with 158 access points doesn't seem to make a whole lot of sense and may negate DOT policy.



http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf

Changes made to make 2B-2 fit the study:

What you won't find in the DEIS/FEIS is how MaineDOT plans to satisfy the long-term-need of a limited-access facility in 20 years triggered by their selection of 2B-2.



http://www.i395-rt9-study.com/home.html

Study (pre-Sept2010)

Logical termini: "Specifically, the eastern logical termini was refined. Alternatives that did not connect to Route 9 east of Route 46 were dismissed from further consideration."

System Linkage: "…provide a limited-access connection between I-395 and Route 9 east of Route 46." 2B-2 did not meet system linkage.

Access management: Any of the 79+ studied alternatives meeting system linkage need had zero added access points over the total length of the connector; bypassed the Village of East Eddington, the intersection of Rte. 9/46 and 2B-2's 4.2 mile section of Rte. 9.

Speed Limit: Entering Eddington westbound from Clifton, the speed limit is 50 mph and one would connect direct to any of the 79+ studied alternatives meeting the system linkage need of a connection east of Route 46 and assume highway speed to I-395.

Purpose: "The purpose of this study is to: (3) improve safety on Routes 46, 9, and 1A…"

Route 9 connection point: East of Route 46, at or near the Eddington/Clifton corporate boundary.

Purpose and Needs: 2B-2 meets only 20%.

Facility type: Limited-access/freeway design.

Long-term needs: None.

Study (post-Sept2010)

Logical termini: "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."

System Linkage: System linkage need and the need for a limited-access facility were redefined to long-term needs; 2B-2 meets near-term system linkage need to year 2035.

Access Management: Because of 2B-2's 4.2 mile Rte. 9 segment, vehicles will transit by "10 local roads and 148 existing driveways or access points to undeveloped lots" and transit through the Village of East Eddington and the intersection of Rtes. 9/46. (158 access points.)

Speed Limit: "The posted speed in this section of Route 9 is predominantly 45 mph, with 35 mph near the Route 46 intersection." Five posted speed changes from 35 to 50 mph on 2B-2's Route 9 segment until reaching highway speed on the new section of 2B-2.

Purpose: "The purpose of this study is to… (3) improve safety on Routes 1A and 46…"

Route 9 connection point: 4.2 miles west of where majority of the 79+ studied alternatives connected as per logical termini redefinition to: "the portion of Route 9 in the study area."

Purpose and Needs: 2B-2 meets 100%.

Facility type: Controlled-access/rolling design.

Long-term Needs: Limited-access retrofit.

Changes in Right-of-Way applicable to only 2B-2:

FOAA #1143 revealed the right-of-way, applicable only to 2B-2 and not the other 79+ studied alternatives, was reduced from 200 feet to 100 to 125 feet. This ROW reduction and a downgrade in design criteria from freeway to rolling were verified at a meeting between Senator Collins's office (CW) and the MDOT (KS) (DB) in April 2013; the meeting results were provided to me via email. I contend the special note in FEIS Chapter 2 denying that ROW change, was deemed necessary to ensure compliance with NEPA, ROW will be changed following NEPA. 4.08. 2013 email can be viewed @ http://i395rt9hardlook.com/wp-content/uploads/2014/02/MAR-2014-Everything-you-always-wanted-to-know...FINAL_.pdf

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

FEIS, Chapter 2

The 200-foot-wide right-of-way provides a sufficient width to allow a future widening, if needed; the need to widen beyond the 200-foot-wide right-of-way is beyond the reasonable foreseeable future time period.*

** While there were brief discussions regarding reducing the width from 200 feet to 100 or 125 feet, the right of way width was never changed and remains the 200-foot width as described in the DEIS.*

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

4.08.13 email excerpts:

"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. They both explained that, even though the ROW is being reduced to 100 ft., they will enter into conversations with all affected landowners."

"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."

FEIS 1.2 Study Purpose does not mention Route 9; how can 2B-2 meet Safety Concerns Need when Route 9 is excluded?

MaineDOT/FHWA/ACOE Technical Memorandum - October 2003

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 interstate system.

http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf (pg. 1)

1.2 Study Purpose

A detailed description of the study purpose and needs was presented in the Draft Environmental Impact Statement (DEIS) Chapter 1 Purpose and Need, which has been incorporated by reference into this Final Environmental Impact Statement (FEIS).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 in Eddington, 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.

http://www.i395-rt9-study.com/Pubs/FEIS_Chap1.pdf

Purpose and Needs have been changed to make 2B-2 fit the Study:

Without seeking participation from the PAC or the governing leaders of the impacted communities, MaineDOT/FHWA clandestinely, devoid of public scrutiny, made the following criteria changes to only 2B-2, NOT the other 79+ studied alternatives. Why weren't all 79+ alternatives analyzed with the same criteria? Don't let the MaineDOT/FHWA say they haven't made any changes!

1. Eliminated future upgradability option to full four-lane divided highway.
2. Redefined Study 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. Now it may have been changed once again to the year 2040.
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*".
7. Reduced ROW from DEIS-stated "*200-foot-wide*" to "*100' to 125' ROW width*".

- How many other changes have been made to 2B-2 that we are not aware of?

Notice of Intent and the original logical termini definition:

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.

"...between Interstate 395 (I-395), Brewer and State Route 9 (Route 9), Clifton..."

NOI was clearly understood for most of a decade of this study as evidenced by MaineDOT/FHWA's own definition of System Linkage and logical termini:

"...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."

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

Logical termini definition: http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf (page 6)

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".

"...he questioned the identification of the logical termini."

(MH) was overruled by FHWA superior less than three months before the DEIS was issued!

Logical termini was changed in Jan 2012 to make 2B-2 fit the study:

000394

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

- 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.

000501

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

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.

000502

"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."

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

Thanks,

Russ

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."

That's about as non-specific as criteria can get, just to make 2B-2 fit the study!

"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, an email from the MaineDOT (RC) to the FHWA (CM), contains a word-for-word direct quote from the excerpt of the NOI. 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 that was accepted for most of the first decade of this Study: "…Route 9 to the east of Route 46".

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 in 2003

"…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."

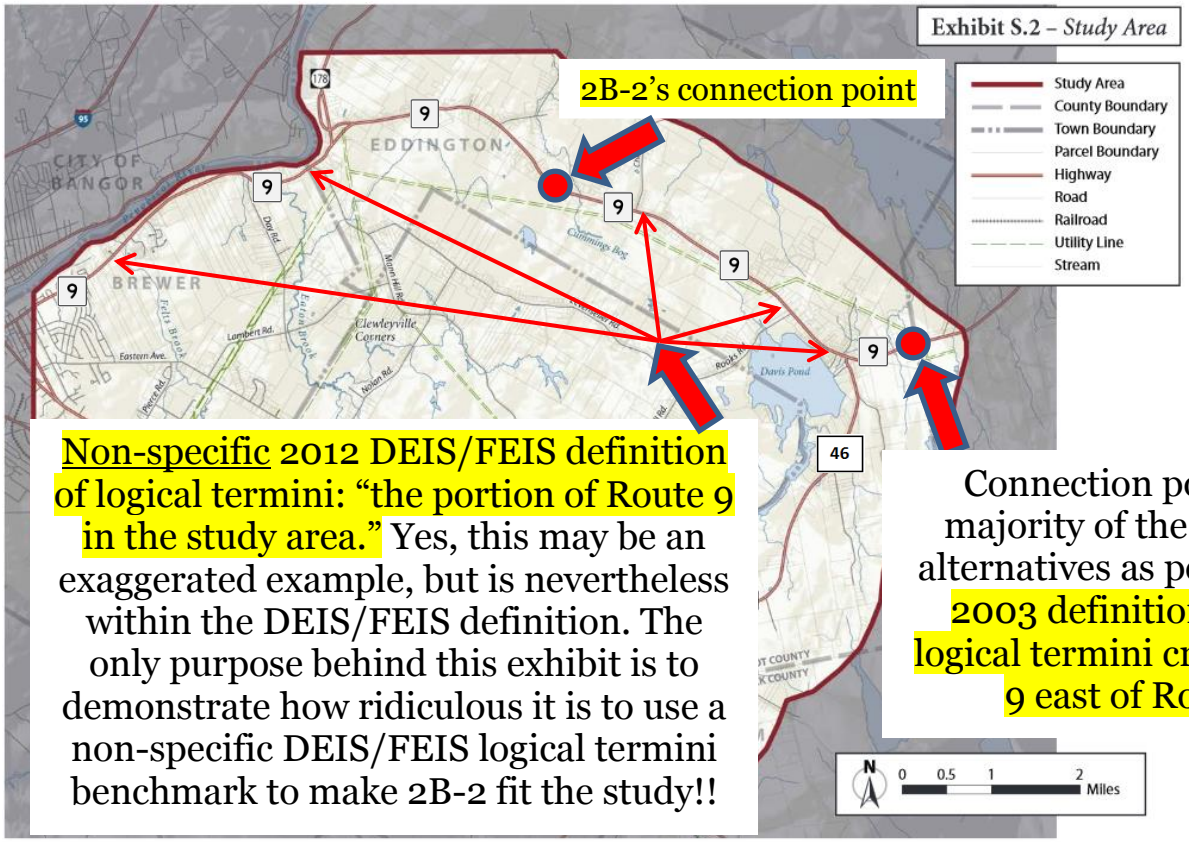
http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf (pg6)

to here in 2012?

"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)

Where?? Basically anywhere within 10 miles!! What kind of criteria is that, other than one to make 2B-2 fit the study?



Non-specific 2012 DEIS/FEIS definition of logical termini: "the portion of Route 9 in the study area." Yes, this may be an exaggerated example, but is nevertheless within the DEIS/FEIS definition. The only purpose behind this exhibit is to demonstrate how ridiculous it is to use a non-specific DEIS/FEIS logical termini benchmark to make 2B-2 fit the study!!

Connection point for the majority of the 79+ studies alternatives as per the specific 2003 definition of eastern logical termini criteria: "Route 9 east of Route 46."

You need to understand the significance of what was accomplished:

MaineDOT/FHWA decided, based on the fact that the NOI "did not use the term logical termini", they could or would alter Purpose and Needs to make the Study fit 2B-2. FHWA's "west to east through Eddington" statement (a statement that did not 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".

If the alternative doesn't fit the Study—change the Study!

Traffic capacity concerns—THEN and NOW:

October 2003:

"MDOT projects that the future level of service (LOS) for this section of Route 9 resulting from this alternative would be "D" — LOS D is where traffic starts to break down between stable and unstable flow and can become a safety concern in areas of level topography, vehicle mix, and fluctuating speeds. Future traffic volume (year 2030 no-build average annual daily traffic) would be approximately 8,800 vehicles." http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf (page 20)

March 2015:

"Concerning the design year traffic projections, you are correct that it is appropriate to use a 20-year design year that begins once the proposed highway construction is complete. Since the design year noted in the EIS is 2035, MaineDOT revisited the traffic information for the design year of 2040. The most recent available data for Route 9 east of Route 46, counted in 2012 as 5760 vehicles per day, is very close to the 2015 base year volume of 5830 and confirms that previous projections have been reasonable. Therefore, it is estimated that the 2040 volume would follow the long-term trend beyond 2035 and results in a 2040 forecast for Route 9 east of Route 46 of 11,560 vehicles per day. For Route 9 west of Route 46, the corresponding 2040 forecast would be approximately 13,000 vehicles per day. These volumes are well within the capacity of a 2-lane highway for the design year 2040." FHWA/Solomon 3.06.15

Transportation Professionals in October 2003 proclaimed a poor future level of service (LOS "D") with a traffic volume of 8,800 vehicles/day as one of the reasons to remove 2B from further consideration—today's Transportation Professionals apparently see no problem with projected traffic volumes between 11,560 and 13,000 vehicles per day. Once again, MaineDOT/FHWA seems to ignore the facts of the past to push this project forward. Note the safety concerns in Oct2003. Where are those same safety concerns now? Shouldn't an extra 2,760 to 4,200 vehicles per day over the Oct 2003 prediction of 8,800 vehicles per day be of some concern?

2B-2 is nothing more than a reincarnation of 2B from 2003:

Alternative 2B

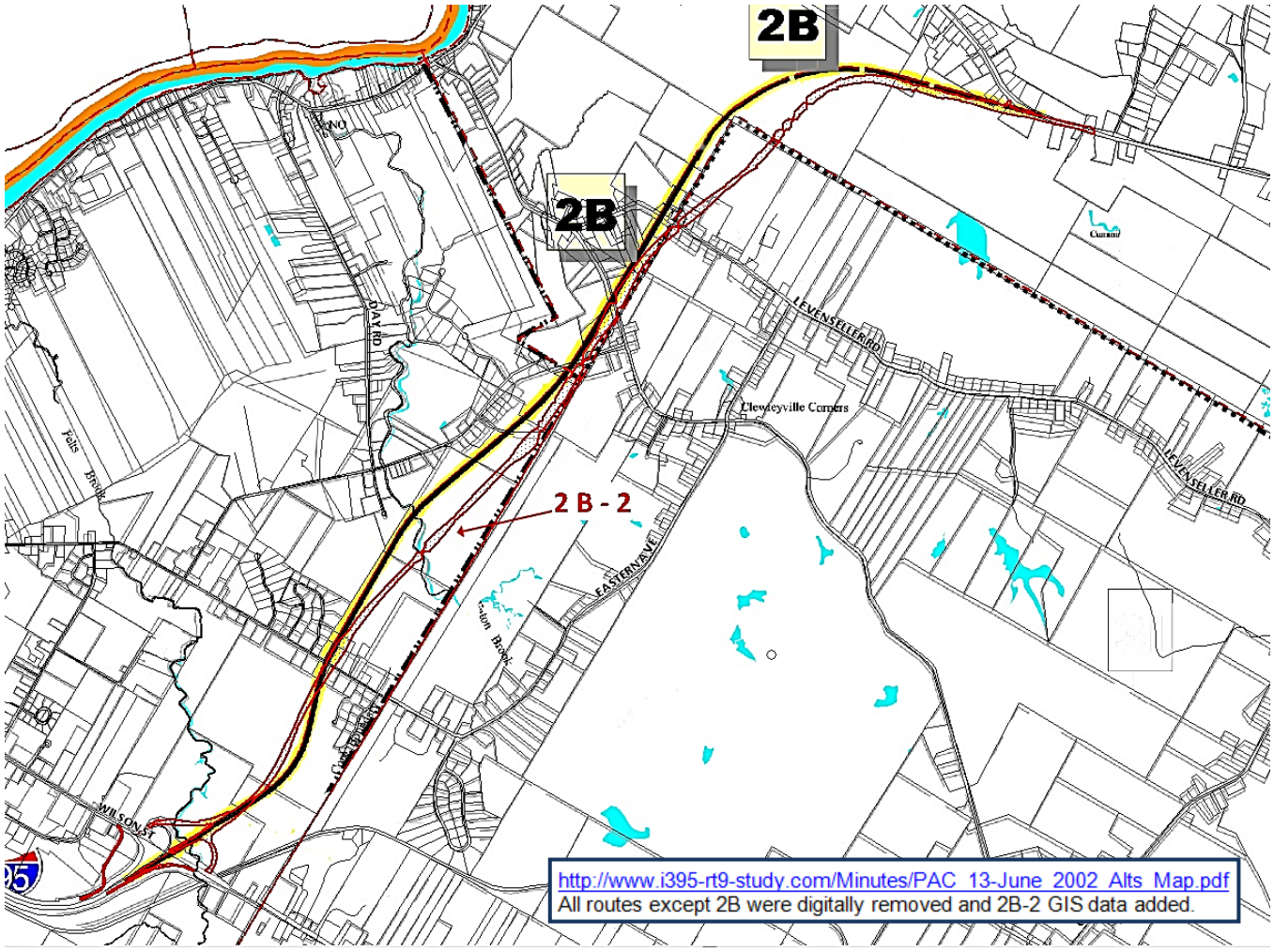
- Satisfies design criteria
- Length: 5.8 mi. of new alignment, 4.2 mi. of Route 9 without additional improvement
- Bridge length: 4,354 ft.
- Earthwork: 1.8 mcy (0.9 mcy cut, 0.9 mcy fill)

Alternative 2B-2

- Satisfies design criteria
- Length: 6.1 mi. of new alignment, 4.2 mi. of Route 9 without additional improvements
- Bridge length: 2,232 ft.
- Earthwork: 2.2 mcy (1.2 mcy cut, 1.0 mcy fill)

Description of Alternatives 2B and 2B-2 in DEIS Appendix C.

A map of 2B and 2B-2 for comparison: 2B-2 is 2B.



2B and 2B-2 are identical with only minor routing changes made to 2B-2 by 2010 to skirt environmental issues. Connection points, I-395 in the south and Route 9 in the north, are identical; that same 4.2 mile segment of Route 9 is integral to both 2B then and 2B-2 now.

"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."

2B was removed from further consideration before PAC #16, as documented in Oct2003 MaineDOT/FHWA/ACOE Technical Memorandum:

Alternative 2B

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

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

Page ii

http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf

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

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

Page 20

http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf

Summary

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.

http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf page 21

Since 2B and 2B-2 share the same 4.2 miles segment of Route 9, the same Route 9 issues documented in 2B's removal from further consideration in January 2003 are just as relevant today with 2B-2.

2B-2's 4.2 mile section of Rte. 9, incorporates 158 existing access points or an average of 37.6 access points per mile.

2B's documented deficiencies—also pertain to today's 2B-2:

- "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."
- "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."
- "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)."
- "Alternative 2B was dismissed prior to PAC Meeting #16 on January 15, 2003 because it would inadequately address the system linkage and traffic congestion needs. This alternative would not be practicable because it would fail to meet the system linkage need of providing a limited access connection between I-395 and Route 9 east of Route 46."
- "MDOT projects that the future level of service (LOS) for this section of Route 9 resulting from this alternative would be "D" — LOS D is where traffic starts to break down between stable and unstable flow and can become a safety concern in areas of level topography, vehicle mix, and fluctuating speeds. Future traffic volume (year 2030 no-build average annual daily traffic) would be approximately 8,800 vehicles."
- "Limited opportunities exist to control access management on this section of Route 9 from local roads and driveways. There are ten local roads and 148 existing drives or access points to undeveloped lots.
- Assuming 10 trip ends per drive and an equal number of left and right turns, Alternative 2B's ability to satisfy the system linkage and traffic congestions needs is questionable."
- "There are several hundred acres that can be developed along this section of Route 9. Additionally, 200 buildings (residential and commercial) would be located in proximity (within 500 feet) of the proposed roadway."

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

Those were the words of MaineDOT and FHWA transportation professionals; how can 2B-2 become the preferred alternative when nothing changed from when these words were first put into text? Another epitaph for MaineDOT: a road built even though the engineers of yesterday warned against what would happen if they decided to construct an alternative using a portion of existing Route 9. I shake my head as I write this—it is purely illogical that trained professionals would discount almost a decade of previous work and history of this study, just to complete the study and build a road, and apparently, any road will suffice at this point. What started out as a regional limited access connector from I-395 direct to Clifton is nothing more than a North Brewer bypass; I would ask the MaineDOT if this Study would have even taken place if the purpose was just to construct a North Brewer bypass…

- Will alternative 2B-2 provide direct limited-access travel from I-395 in Brewer to Route 9, east of Route 46 at or near the Eddington/Clifton corporate border as per Study criteria for the first 9+ years of this study? NO, 2B-2's northern connection is 4.2 miles west of this criteria on a not-to-be-improved existing section of Route 9; no longer a limited access facility and in fact, vehicles will travel by an additional 158 separate and distinct access points on that section of Route 9, making up 40.8% of the overall length of alternative 2B-2, until reaching the Eddington/Clifton border.

- Will alternative 2B-2 be designed with MaineDOT's freeway design criteria as per Study criteria for the first 9+ years of this study? NO, 2B-2 has been downgraded to rolling design. Grading restrictions are lessened by using rolling design criteria or in other words the grade of this road will be greater than the grading of a road designed using freeway criteria.

- Will alternative 2B-2 be upgradable to a 4-lane divided highway in the future as traffic increases per Study criteria for the first 9+ years of this study? NO, the upgradability option was scrapped in October of 2011. The FEIS downplays this fact; however it was stated in this October 2011 Interagency meeting: "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."

FHWA NEPA Compliance POC/Solomon recently stated: "The alternatives presented in the DEIS and FEIS were evaluated using the same design criteria." BUT, weren't all 79+ studied alternatives, not just the three remaining, supposed to be evaluated using the same criteria? 2B-2 was evaluated with a totally different criteria set: the change from 4-lane/4-lane ROW to 2-lane/2-lane ROW by Oct2011; the change to rolling criteria that was first discussed on December 6, 2011(FOAA #000391/392) as a future change and essentially changed pre-DEIS per a MaineDOT Chief Engineer's Memo in January 30, 2012 (FOAA #000431); and the disputed reduction in ROW from approximately 200' to between 100' to 125', first discussed in Aug2011 (FOAA #001143) and affirmed by MaineDOT Commissioner in Apr2013 thru the Office of Senator Collins even though it is passed off as a "brief discussions…never changed" in the FEIS/Chapter 2/page 22. Evidence found to date questions the legitimacy of NEPA compliance within this study, let alone the fact that 2B-2 only met 20% of Purpose and Needs in Apr2009.

The 20 year design life of this project guarantees traffic capacity of Route 9 for 20 years following construction and is the basis of MaineDOT's "hard look at Route 9 and the subsequent selection of 2B-2 as the preferred alternative. Defined to the year 2030 in September 2010, to the year 2035 in January 2012 for inclusion in the DEIS, carried forward as the year 2035 in the FEIS page 26: "Alternative 2B-2/the Preferred Alternative would further the study's purpose and satisfy the system linkage need in the near term (before 2035)." AND—changed to the year 2040 only after I personally advised FHWA/Solomon that the 2035 design year did not satisfy Purpose and Needs for the whole 20 year design of the project, specifically the near-term system linkage need. Allowing the MaineDOT to change the design year, once again, at this late stage of the study to correct this near-term system linkage need error in the FEIS is suspect at best. What's the worth of the FEIS if it's not 100% accurate; at a cost of $2.75 million, the FEIS should be error-free and not subject to such easy changes when a private citizen points out an issue.

4B, paralleling Route 46 which fixed the problem at the source, was rejected for requiring too much cut and fill. How would alternative 4B and many of the other 79+ studied alternatives—including 3EIK-2 the MaineDOT/FHWA preferred alternative for almost 7 years—fare today when analyzed using the same downgraded criteria set as 2B-2: 2-lane/2-lane ROW, using rolling design with a reduced 100' ROW? Relaxed grading restrictions would have resulted in many of the 79+ studied alternatives being more acceptable today than when they were initially removed from further consideration.

What does the FHWA say about left turns?

"Where restricting turning movements to and from a driveway is possible, it is most beneficial from a safety perspective to prohibit left-turning movements. Research suggests that approximately 72 percent of crashes at a driveway involve a left-turning vehicle…approximately 34 percent of these crashes are due to an outbound vehicle turning left across through traffic. Twenty-eight percent of crashes are due to an inbound, left-turning vehicle conflicting with opposite direction through traffic, and 10 percent are due to outbound, left-turning movements incorrectly merging into the same direction through movement." http://safety.fhwa.dot.gov/intersection/resources/fhwasa10002/

What does the MaineDOT say about Route 9's left turns?

"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."
http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf (page 20/21)

How many left-hand-turns on 2B-2?

"There are ten local roads and 148 existing drives or access points to undeveloped lots."

- Question: How many left turns exist on 2B-2's 4.2 mile section of Route 9?
- Answer: If you traverse that section of Route 9 from one end to the other and back again, you will come upon 158 left-hand-turns!

FACT: ANY of the 79+ studied alternatives satisfying the system linkage need of an EAST of Rte. 46 connection had ZERO left turns; 2B-2's near-term system linkage need sanctions 158 left turns. How can commissioning a new facility with 158 existing access points satisfy Safety and Traffic Congestion Needs and how can that be considered as effective access management?

FHWA key points for access management:

- Access management:
  - Minimizes access-related accidents.
- Points of conflict increase as areas along the highway become more commercialized and densely populated.
  - Each new access point added to an undivided highway in an urban and suburban area increases the annual accident rate by 11 to 18 percent on that highway segment.
  - In rural areas, each access point added increases the annual accident rate by seven percent.
- Well-managed access points can improve user safety by reducing the number, severity and cost of access-related accidents.
  - For example, increased spacing between driveways minimizes conflict by allowing motorists more time to anticipate and recover from turning traffic.

http://www.fhwa.dot.gov/planning/publications/rural_areas_planning/page07.cfm

As the number of access points increase—the accident rate increases by 7.0% for each added access point DECREASING ROADWAY SAFETY.

The original System Linkage Need provided a limited-access connection with zero access points by virtue of purposely bypassing that same 4.2 mile Rte. 9 section used by 2B-2. You are 1,106% more likely to have an accident on 2B-2 with 158 existing access points (37.6 per mile) than any of the 79+ studied alternatives that satisfied the original System Linkage Need.

How does the MaineDOT define Access Management?

What is access management?

- Access Management is the planned location and design of driveways and entrances to public roads.
- What are the goals of access management?
- Increase Safety. Highway crashes related to cars entering and leaving the public way resulted in an estimated economic impact to the State of Maine of $1.2 billion over the past 10 years and of approximately $106 million in 1999 alone. In 1996, 1 in 6 crashes occurred at driveways or entrances; 1 in 5 people involved in crashes were involved in driveway or entrance related crashes. Access management will increase safety of highway and driveway users.
- Enhance Productivity. Arterial highways represent only 12% of the state-maintained highway system, but carry 62% of the state-wide traffic volume. Maintaining posted speeds on this system means Maine's people and its products move faster, thus enhancing productivity, reducing congestion-related delays and environmental degradation.
- Avoid Future Construction Costs. By preserving the capacity of the system we have now, we reduce the need to build costly new highway capacity such as new travel lanes and bypasses.

http://www.maine.gov/mdot/traffic/accessmgmt/factsheet.htm

Professionals on the record:

- "Access Management (AM) is a set of techniques that State and local governments can use to control access to highways, major arterials, and other roadways. The benefits of access management include improved movement of traffic, reduced crashes, and fewer vehicle conflicts." http://www.ops.fhwa.dot.gov/access_mgmt/

- "The main function of major roads, like interstate freeways and regional highways, is to move traffic over long distances at higher speeds. Access to these roads must be carefully managed so requests for new access to development do not contribute to unsafe or congested conditions."
  http://ops.fhwa.dot.gov/publications/amprimer/access_mgmt_primer.htm

- "Consider the effects of adding more access points to a highway. A national study in the late 1990s looked at nearly 40,000 crashes and data from previous studies to determine the crash rate associated with adding access points to major roads. It found that an increase from 10 to 20 access points per mile on major arterial roads increases the crash rate by about 30% (1). The crash rate continues to rise as more access is permitted. This is why studies consistently show that well-managed arterials are often 40 to 50 percent safer than poorly managed routes."
  http://ops.fhwa.dot.gov/publications/amprimer/access_mgmt_primer.htm

- "Access management not only improves roadway safety, it also helps reduce the growing problem of traffic congestion."
  http://ops.fhwa.dot.gov/publications/amprimer/access_mgmt_primer.htm

Add access management to the mix and question how 158 additional access points added to this new connector from the onset will affect safety and traffic congestion. Why would transportation specialists promote 2B-2 with an additional 158 access points when any of the 79+ studied alternatives satisfying the System Linkage Need had zero added access points? The 4.2 miles of Route 9, so integral to the 2B-2 alternative includes an average of 37.6 access points/mile.

As access numbers increase, the accident rate also increases, DECREASING ROADWAY SAFETY. With 158 access points, 2B-2 seems to fit the definition of "poorly managed" which is "40 to 50 percent less safe than a well-managed route.

Was cost nothing more than a guesstimate?

From: Sweeney, Ken

Sent: Friday, January 13, 2012 1:07 PM

To: Charette, Russ

000364

Subject: RE: I-395/Route 9 Study

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 interprete the language consider the same as reguire.

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 Chief Engineer (KS) instructs MaineDOT Project Manager (RC) how to fill in the range of costs.

Where are the facts?

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 MaineDOT and FHWA define safety as the elimination of crashes." That 4.2 mile section of Route 9 ("without additional improvement" is an essential part of 2B-2; last year's Route 9 fatality 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 had a chance to improve safety within the entire Study area to include Route 9 and for some reason they balked at that opportunity.

- I believe the MaineDOT/FHWA "hard look" was a rush to judgment to coronate 2B-2; the decision makers in this Study have failed miserably on the deliverable they were tasked to provide back in the year 2000: a limited-access, freeway designed, high speed facility to the east of Rt.46.

DEIS/FEIS cost vs. design disparity:

FHWA NEPA Compliance POC/Solomon recently stated: "The cost estimates in the DEIS and FEIS were based on the rolling design criteria and range from $61 to $81 million." YET, the DEIS/FEIS-stated-design is MaineDOT's criteria for freeways. How can the cost be based on a different design in the SAME document? I say that smells like NEPA non-compliance and may also violate Maine State Statute.

Gannett Fleming

Excellence Delivered ***As Promised***

000391

December 6, 2011

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

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

Dear Judy:

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

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

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

Sincerely,

Gannett Fleming, Inc.

William M. Plumpton, CEP
Project Manager

000392

Cost Estimate Summary for Range of Alternatives

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

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

- NOTE: 5A2B-2 and 5B2B-2 are included in the DEIS/FEIS, yet FOAA documents indicate absolutely no MaineDOT/FHWA support—they are nothing more than filler to give the process the illusion of legitimacy.

Question: Does any engineering documentation exist to back up 2B-2's FEIS-stated-cost @ $61 million OR was it simply a multiplication of 2B-2's 6.1 miles x $10 million/mile OR was $61 million arbitrarily chosen to ensure that cost would be below the stated benefits of $61,424,195 in the Benefit-to-cost ratio?

% cost reduction that established pre-DEIS rolling design criteria.

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

http://i395rt9hardlook.com/emails-documents-and-articles-oh-my/foaa-discoveries/ (excerpt)

What you won't find in the DEIS/FEIS is a proposal on how to satisfy the long-term limited-access facility need to the east of Route 46—deferred for 20 years following 2B-2's commissioning. 2B-2 may be the cheapest to construct now, but in 20 years we get to do this all again. If 6.1 miles of pavement costs $61 million in 2011 dollars, what will the next 4.2+ miles cost in 2040 dollars? 2B-2 is an ill-conceived, short-term band-aide fix that will cost $Tens of millions more in the long-term.

FEIS-stated-cost

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.

http://www.i395-rt9-study.com/Pubs/FEIS_Chap2.pdf (page 36)

FEIS-stated-design

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.

Route 9 would not be improved (beyond the improvements necessary to connect the preferred alternative), and it would not provide a high-speed, controlled-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.

How is it possible for the FEIS-stated-cost to be based on "rolling design" when the FEIS-stated-design is clearly "MaineDOT design criteria for freeways". Shouldn't the cost in the FEIS be based on the design in the SAME FEIS?

http://www.i395-rt9-study.com/Pubs/FEIS_Chap2.pdf (page 27)

How will MaineDOT implement the long-term needs of 2B-2?

"...the system linkage need and need for a limited access facility should be considered a long-term need...system linkage need remains a valid need for this study."

Only two options exist to satisfy 2B-2's long-term needs after the fact:

- 2040: construct a 5.0-6.0 mile bypass from 2B-2's Route 9 connection point direct to Route 9, east of Route 46, at the Clifton/Eddington corporate border as was the intent of the decade-long original System Linkage Need, the decade-long need for a limited-access facility and the Notice of Intent to improve traffic from Brewer (I-395) to Clifton (Rte. 9). Spending $Tens of millions more in 2040 for a bypass of the same 4.2 miles of Route 9 that any of the 79+ studied alternatives meeting the original System Linkage Need intentionally bypassed is a complete waste of scarce $transportation dollars and exhibits bureaucracy at its finest...

- 2040: remove all local access (remember those 10 roads and 148 access points?) from the 4.2 mile segment of Route 9 which is 40.8% of the overall 10.3 mile length of 2B-2 alternative. This would require parallel local roads, added extra lanes, possibly land-locking some residents and the complete decimation of the Town of Eddington as we know it.

1.] What is 2B-2's long-term plan and how will the state pay for it?

2.] Why is the plan to meet 2B-2's long-term needs conveniently missing from the DEIS/FEIS? Any of the 79+ studied alternatives meeting the original system linkage needs did not have long-term needs. This is only necessary because of the ill-conceived selection of an alternative not meeting Purpose and Needs at the onset. These long-term needs are completely avoidable.

3.] 2B-2's long-term cost should be part of the total cost in the FEIS, whether considered a direct or indirect impact; and when compared to ALL 79+ studied alternatives, I would expect that the cost of this project could easily double and not be as reasonably priced as MaineDOT likes to present.

Benefit-to-Cost Ratio and the real reason the FEIS-stated cost is $61 million and not the actual $93.24 million that matches the FEIS-stated "MaineDOT's design criteria for freeways":

A simple concept to understand: Cost must be equal to or less than the stated benefits of $61,424,195 and the $61 million FEIS-stated cost does just that—coincidence? The mathematical basis behind the FEIS-stated $61 million cost cannot be found in the FEIS.

Since a Benefit/Cost Ratio is simple mathematics, knowledge on how to compute benefits is not necessary. Present value of Benefits established by MaineDOT @$61,424,195 (FOAA #0187 available upon request). A project must have a B/C =/> (equal to or greater than) 1.0 to be viable; as that number increases above the 1.0 threshold—the more viable the project.

- Benefit-to-Cost Ratio using $93,240,000 cost established per FOAA #0392:
  FOAA #0187 established Benefits @ $61,424,195
  FOAA #0392 established 2B-2 Cost @ $93,240,000
  $61,424,195/$93,240,000 = B/C Ratio @0.659
  A Benefit-to-Cost Ratio of 0.659 makes this project unviable when using "…cost estimate…prepared using the DOT's freeway criteria."

- Benefit-to-Cost Ratio using $61,000,000 cost established per the FEIS:
  FOAA #0187 established Benefits @ $61,424,195
  FEIS-stated cost of alternative 2B-2 is established @$61,000,000
  $61,424,195/$61,000,000 = B/C Ratio @1.007
  A Benefit-to-Cost Ratio of 1.007 makes this project viable, yet marginally. MaineDOT rounded to obtain a Benefit-to-Cost Ratio of 1.1 (FOAA #0187).

- A Benefit to Cost ratio >1.0 cannot be obtained unless the design criteria is downgraded from freeway criteria to rolling criteria. That is the driving force. The $61 million FEIS-stated cost reflects the future downgrade to rolling criteria, even though that future change in criteria has not actually taken place yet (or at least not technically per the FEIS—and we all know that the FEIS "is the current document of record".

"Our responsibility going forward is to manage our existing obligations with our existing budget, and to limit adding new infrastructure to that which is shown to provide overwhelming benefits." (8.01·11 Commissioner Bernhardt)
* Would a Benefit to Cost ratio of 1.007 really be considered overwhelming? *

Escalating shortfalls as the I-395/Route 9 Study moves on…

Core Highway and Bridge Programs CY 2015-2016-2017 *Work Plan* vs. Need ($ Millions)				
Work Group	**Average Annual $ from 2015-2016-2017 *Work Plan***	**Annual $ Needed to Meet Basic Statutory Goals**	**Average Annual $ Shortfall**	**Dollar % Shortfall***
Bridge Capital & Preservation	$70	$140	($70)	(50%)
Highway Reconstruction/Rehab	$93	$100	($7)	(7%)
Pavement Preservation	$78	$120	($42)	(35%)
Light Capital Paving	$28	$28	$0	0%
Total - Core Programs	**$269**	**$388**	**($119)**	**(31%)**

In summary—the need for sustainable, predictable capital funding will continue to be the major transportation policy challenge facing the nation and our state for the foreseeable future.

http://maine.gov/mdot/projects/workplan/docs/2015/WorkPlan2015-2016-2017.pdf

"…unmet bridge needs in our state—now estimated at approximately $70 million per year." $210 million over the life of this plan!

"With ongoing uncertainties about federal funding, shrinking buying power and rapidly aging infrastructure, adequately funding Maine's, and the nation's, transportation needs continues to be challenging. The department's new Keeping Our Bridges Safe report, for example, provides new information about the unmet bridge needs in our state—now estimated at approximately $70 million per year."

"Again this year, and even with the funding assumptions in this Work Plan, (which include bonding that has yet to be proposed or approved), the department's highway and bridge programs will experience a shortfall, now estimated at approximately $119 million per year."

That's a $357 million shortfall over the plan's three years!

Question: How many bridges will NOT be funded for replacement or rehabilitation over the life of the 2015-2016-2017 Work Plan?

Per CY 2015 Work Plan per the MaineDOT:

"Replacement or rehabilitation of 47 Bridges,
at a total estimated value of nearly $95 million."
http://maine.gov/mdot/projects/workplan/docs/2015/WorkPlan2015-2016-2017.pdf

Average cost: $95 million /47 bridges = $2,021,276.60

Approximately $2.02 million per bridge.

$210 million unmet bridge needs /$2.02 million per bridge = 103 bridges.

Answer: 103 bridges

The $61 million dollar question:

Using estimated cost @$2.02 million/per bridge from the 2015-2016-2017 MaineDOT Work Plan, $61 million will pay for the replacement or rehabilitation of approximately 30 bridges.

Should we spend the $61 million on 2B-2, an alternative that does NOT satisfy the original Purpose and Needs or should we fund the replacement/rehabilitation of an extra 30 bridges?

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

- "Adding more miles to our transportation system in this current fiscal environment doesn't make financial sense," said Bernhardt...We are struggling to maintain the roads and bridges we currently have in safe and serviceable condition." (August 1, 2011)

"…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 #000128 thru FOAA #000132, FOAA #000177 and FOAA #000178 received by the Town of Eddington in Mar 2013: http://i395rt9hardlook.com/wp-content/uploads/2014/02/Woodshed.pdf

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.

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

> "NEPA analysis w/ footprint change
> 12/14/2011 03:29 PM
> We are preparing an EIS and are currently reviewing the administrative draft of the DEIS. For the last five years we analyzed impacts for many (too!) five to ten mile long, new alignment, 250' ROW, controlled access, build alternatives. We have even identified a 'preferred alternative", with the caveats that go with that. Two lanes would be constructed initially, as a "super 2", one barrel of the four-lane version and reserve the remaining ROW, building out the other two lanes when needed.
>
> We are just now considering a much reduced footprint to around 100' ROW and to a lower standard, a two-lane arterial, rural rolling to reduce costs.

000132

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

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

"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."

December 29, 2011 000177

To: File
From: Judy Lindsey
RE: I-395/ Route 9 Transportation Study Administrative Draft DEIS Status

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

Procedural Steps

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

Discussion items

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

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.

"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."

(MH) was overruled by superiors as verified in the same 4.08.13 email from the Office of Senator Collins. This issue is extremely important since (MH) was AND still is a co-manager of this Study. This occurred within 90 days of the issuance of the DEIS into the 12th year of this Study. This is just another frustration—50% of the study management apparently agreed that 2B-2 did not meet Purpose and Needs, yet the study continued on…

Red flags—did this study skirt NEPA compliance?

I contend, one does not have to understand NEPA regulations to suspect that something smells a little fishy with the way this study morphed—just look at the facts—ask yourself if there is any other logical answer—if not—the only cogent answer is: to advance this project, NEPA was unavoidably sidestepped.

- "We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria." (FOAA#000391)
- "…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." (FOAA #000391)
  - Why would one wait until "the conclusion of the NEPA process" to change the design from freeway to rolling criteria, yet, use the cost of the future rolling design change—upfront in the DEIS/FEIS—without documenting the change in the same DEIS/FEIS? I contend that the lower upfront cost was needed to "sell" the project and by not documenting the change in the DEIS/FEIS—they minimized the risk of NEPA non-compliance and the public uproar that would have surely ensued.

- "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." (FOAA#000131)
- "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." (FOAA#000177)
  - I contend that all 79+studies alternatives were to be evaluated using identical criteria; the downgraded criteria used to evaluate 2B-2—and not the other 79+ studied alternatives—was totally different. Comments by FHWA (MH) related in emails from MaineDOT (JL) to her management team agree with my contention.

I contend these examples imply NEPA non-compliance. DEIS/FEIS-stated-cost is not based on DEIS/FEIS-stated design in the SAME document. How is that possible without it being an intentional act of deception? 2B-2 was evaluated with downgraded criteria; different criteria than used to analyze the other 79+ studied alternatives. Design criteria was changed before the DEIS, during the DEIS or not at all depending on who is spinning the tale at the time. The cost vs. design disparity has—however—been validated by FHWA acknowledgment of the cost basis, and information gleaned from the DEIS, FEIS and FOAA documents. That is an undisputable fact.

Summary: What did our State/Federal Agencies, without input since 4.15.09 from the PAC and/or the duly elected governing leaders of the impacted communities, deliver?

- Future upgradability option to a 4-lane divided highway was discarded by Oct. 2011.
- 2B-2 does not provide high speed travel from I-395 to Route 9 in Clifton (east of Route 46). There are 5 speed limit changes on the 4.2 miles of Route 9 supporting 2B-2, the lowest being 35 mph through the village of East Eddington. Any of the 79+ studied alternatives that satisfied the System Linkage Need would not have had to travel this section of Route 9, essentially bypassed by the System Linkage Need.
- 2B-2 does not provide limited access travel from I-395 to Route 9 in Clifton (East of Route 46). 2B-2 is now considered as controlled access. Any of the 79+ studied alternatives that satisfied the System Linkage Need basically only had one entrance and one exit with no other access to normal traffic for the full 10 to 11 mile length of the alternative; there are an extra 158 separate and specific access points to Route 9 on the 4.5 miles of Route 9 supporting the 2B-2 alternative that traffic on this connector must contend with.
- 2B-2 will no longer be designed to MaineDOT design criteria for freeways; the design standard for 2B-2 will be downgraded to rolling criteria following the conclusion of NEPA per FOAA.
- The Right-Of-Way of 2B-2 will be reduced from 200 feet to between 100 feet and 125 feet per FOAA. This places this highway even closer to our neighborhoods.
- 2B-2 terminates on Route 9 some 4.2 miles west of where the majority of the 79+ alternatives terminated East of Route 46. Any of the 79+ studied alternatives satisfying the System Linkage Need would have bypassed this 4.5 mile section of Route 9, the village of East Eddington and the 9/46 intersection.
- According to the DEIS: "However, future development along Route 9 in the study area can impact future traffic flow and the overall benefits of the project."
- The MaineDOT decided ten years into the study that the original System Linkage Need and the Need for a limited access facility still remained valid needs, but the MaineDOT re-identified them both as long-term needs without identifying what long-term meant or how to meet those needs in the future. Near-term was identified first to the Year 2030 and then to 2035 and now to 2040 by the MaineDOT, one could surmise that long-term would be past the Year 2040.

After exhausting $2.75 million, is an alternative dismissed in Jan 2003 really the best these Transportation Professionals can offer?

- A waste of scarce $transportation: Construction of alternative 2B-2 will squander $61 million of scarce state and federal transportation dollars at a time when the MaineDOT struggles to maintain our existing roads and bridges. MaineDOT's 2015-2016-2017 Work Plan documents a staggering $119 million per year shortfall in the highway and bridge programs, including record unmet bridge needs of $70 million per year.

- Loss in tax revenues: Brewer would lose approximately $37,000 per year in tax revenues if 2B-2 goes to construction; not including the devaluation of homes and properties in close proximity to the connector. Over the 20 year lifespan of this roadway, the City of Brewer will lose $740,000 in tax revenues. The city cannot absorb that large a loss without going back to the home owner and raising property taxes. DEIS.

- Completely excluded from the decision-making process: The City of Brewer and the Town of Eddington have withdrawn support from the I-395/Route 9 connector project, supporting only the No-Build option by Resolve in 2012 and 2013. The Brewer City Council reiterated their non-support resolve for the third time on January 15th 2015.

- Cumulative environmental effects 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. DEIS

- Impacted properties: There are 22 properties in Brewer, with an appraised value of $2.25 million, directly impacted by 2B-2. MaineDOT will have the authority to acquire those properties by Eminent Domain. MaineDOT will acquire 163 acres per the DEIS.

- 8 families will watch the bulldozers raze their homes: 2B-2 will have a significant negative impact on many residential properties and the residential displacement of 8 is 4 times that of the previous preferred alternative. DEIS

- 2B-2's proximity displacement (buildings within 500' of the roadway): 7.9 times that of previous preferred alternative—largest amount by far of all the studied alternatives. (@190 proximity displacements) After studying 79+ alternatives, the MDOT/FHWA have decided to site this connector within the most populous segment of the study area.

- The only regulation provided for the human species is the one to take your home away: Regulations guaranteeing vernal pool inhabitants a 750' buffer have altered the study outcome without consideration for the human element that is regulated only by Eminent Domain. Humans abutting the right-of-way are not considered directly impacted.

MaineDOT's "*hard look at Route 9*" again and again…

The centerpiece of MaineDOT's decision after almost ten years of study, is that an existing 4.2 mile segment of Route 9 without additional improvements, suddenly had enough traffic capacity to the year 2030 to become an integral segment of 2B-2; 40.8% of the overall length of the 2B-2 alternative is that 4.2 mile existing segment of Route 9.

The NOI states: "…between Interstate 395 (I-395), Brewer and State Route 9 (Route 9), Clifton…" 2B-2 uses Route 9 in Eddington as a "shortcut" to get to Route 9 in Clifton. Two things had to happen: a change to the original logical termini (Rte. 9 EAST of Rte. 46) AND a 20 year delay in the implementation of the original System Linkage Need to include the need for a limited-access facility—that was all too easy—they just rewrote the criteria and came up with near-term needs to satisfy the system linkage need for the 20 year design life; long-term was never defined.

But, they didn't leave a large enough buffer in time to accomplish the construction before the "hard look" timed out. 1.5 years went by and the DEIS was in final preparations; it was already 2012, and with only 18 years left until 2030, the numbers simply didn't stack up for inclusion in the DEIS. A MaineDOT Memorandum http://www.i395-rt9-study.com/Pubs/Revised%20Projections_January%202012.pdf dated 1.11.12 states: "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."

So, after taking another look at traffic projections or what I call "hard look V2.0", the base year of the 20 year design was changed from 2010 to 2015 and forecasts and analyses were revised from 2030 to 2035 and the near-term System Linkage Need was changed from (Year 2030) to (Year 2035). The numbers worked and should have provided enough buffer (3 years) to complete the EIS and go to construction to keep the project's System Linkage near-term needs intact and in sync with the 20 year design life of the connector.

The FEIS came out on 1.23.15 and the clock was running. MaineDOT's "hard look" is time critical; if the timing gets skewed, the argument to select 2B-2 is no longer valid i.e. the FEIS states that "2B-2 meets the System Linkage Needs in the near-term (before 2035)."

The connector is engineered for 20 years to the year 2035, but if it isn't constructed for a year or two or even more, the passing of time will overtake the end of the near-term period on December 31, 2034 and the long-term System Linkage Need and the need for a limited-access facility will kick-in immediately on 1.01.2035. What happens then is the creation of a condition where you have a connector that does NOT satisfy near-term or long-term System Linkage Needs at the same time.

I advised FHWA HDQ, on 2.25.15, that alternative 2B-2 did not and could not satisfy the Study Purpose and Needs for the full 20 year life design of the project since there weren't even 20 years left from the time of the FEIS to December 2034—the period of time exceeding December 2034 does not/cannot satisfy Study Purpose and Needs. Essentially if 2B-2 was to be completed 2 to 3 years from the date of the FEIS, 2B-2 would not satisfy Purpose and Needs for a 2 to 3 year period. What was the resolve to my contention? FHWA HDQs advised that I was absolutely correct in my assumption of the 20 year design life and I was told that the MaineDOT took another "hard look" at the traffic numbers and changed the design year to 2040!

"Concerning the design year traffic projections, you are correct that it is appropriate to use a 20-year design year that begins once the proposed highway construction is complete. Since the design year noted in the EIS is 2035, MaineDOT revisited the traffic information for the design year of 2040. The most recent available data for Route 9 east of Route 46, counted in 2012 as 5760 vehicles per day, is very close to the 2015 base year volume of 5830 and confirms that previous projections have been reasonable. Therefore, it is estimated that the 2040 volume would follow the long-term trend beyond 2035 and results in a 2040 forecast for Route 9 east of Route 46 of 11,560 vehicles per day. For Route 9 west of Route 46, the corresponding 2040 forecast would be approximately 13,000 vehicles per day. These volumes are well within the capacity of a 2-lane highway for the design year 2040." FHWA/Solomon 3.06.15

Projections are nothing more than a guesstimate; should a guesstimate be the basis for an expenditure of $61 million to construct a connector (2B-2) that does not meet the original Study Purpose and Needs at a time when we can't even afford to maintain our existing infrastructure? How many times does the clock have to be reset to forward this project? The "hard look at Route 9" is now at Version 3.0. And—you thought the FEIS was a FINAL report…

Brewer issues their 3rd resolution of non-support:

CITY OF BREWER, MAINE
IN CITY COUNCIL ASSEMBLED

2015-B002 January 13, 2015

TITLE: RESOLVE, TO REITERATE THE BREWER CITY COUNCIL'S NON-SUPPORT OF THE I-395 AND ROUTE 9 CONNECTOR PROJECT AND TO CONTINUE TO SUPPORT THE NO-BUILD OPTION.

filed January 7, 2015
by Matthew Vachon, Jerry Goss
Joseph Ferris, Kevin O'Connel
and Beverly Uhlenhake

WHEREAS, the City of Brewer has been a major supporter of efforts to improve east-west transportation connections in Maine, including the need to extend I-395 in Brewer to meet Route 9 in Eddington/Clifton; and

WHEREAS, the City has gone on record on numerous occasions about the need to take into account local, regional, and statewide transportation considerations in selecting a final route for this important transportation connector; and

WHEREAS, the Maine Department of Transportation (MDOT) has concluded that proposed 2B-2 is the best route for a transportation connection between the current end of I-395 in Brewer to Route 9 in either Eddington or Clifton; and

WHEREAS, the proposed 2B-2 route will have a significantly negative impact on many residential properties; and

WHEREAS, the proposed 2B-2 route impacts a significant amount of wetlands and could cause environmental damage; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby reiterate their non-support of the proposed construction of the I-395 extension to Route 9 (proposal 2B-2); and

BE IT FURTHER RESOLVED, that the City of Brewer still supports the "no-build" option for this project.

Date: January 26, 2015

This is a true and attested copy of a resolve adopted by unanimous vote of the City Council of Brewer at a regular meeting held on Tuesday, January 13, 2015 at 6:00 p.m. at which time all members of the council were present and voting.

a true copy, attest: Pamela J. Ryan
Pamela J. Ryan, City Clerk
Brewer, Maine

"TO REITERATE THE BREWER CITY COUNCIL'S NON-SUPPORT OF THE I-395 AND ROUTE 9 CONNECTOR PROJECT AND TO CONTINUE TO SUPPORT THE NO-BUILD OPTION."

Bangor Daily News OPED dated 5.15.12

2B or not 2B

By Larry Adams, Special to the BDN (Larry Adams is a resident from Brewer.)

The I-395/Route 9 Study Group is disregarding the original criteria and intent of the project: Alternative 2B was removed from further consideration not once, but twice before the end of 2002. The reasons were clear: "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. Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards."

In the same document, the original system linkage need was further defined: "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."

That paragraph continued to give a glimpse of what may be expected if an alternative does not meet the original system linkage need parameter: "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." This information can be found at http://www.i395-rt9-study.com/Pubs/Alts%20Tech%20Memo.pdf, page ii and Summary page 5.

MDOT's Purpose and Needs Matrix, http://www.i395-rt9-study.com/Pubs/PAC041509_handouts.pdf, dated April 15, 2009, contained no engineering data that could be manipulated or misunderstood by anyone — just simple yes and no answers. Did 2B-2 meet the following criteria: Study purpose? No; ACOE purpose? No; System linkage need? No; Traffic congestion need? No; Safety concerns? Yes. Alternative 2B-2 only met 20% of the purposes and needs of the study three years ago and now it is the "preferred alternative" for a $90 million dollar project.

Alternatives 2B and 2B-2 use the same "4.2 mi. of Route 9 without additional improvement" per the DEIS. They are almost exactly the same route with the same I-395 starting point and the same connection point on Route 9. 2B-2 is 2B.

One of the most interesting statements in the 300-plus pages of the Draft Environmental Impact Statement is found on page s19: "However, future development along Route 9 in the study area can impact future traffic flow and the overall benefits of the project." Go to http://www.i395-rt9-study.com/DEIS/00Sum.pdf for the DEIS Summary.

How can the overall benefits depend on Eddington's development or lack of development? How long before future development becomes a safety issue? What is the cost of safety?

What you won't find in the 300-plus-page DEIS document is any real concern for the human element. Humans can be relocated, but you certainly can't disturb a couple of frogs and salamanders in a vernal pool that may only exist for a few months and not return again for a year or so if ever. Many of us are well within 100 feet or less of the 200-foot right-of-way, many people have their properties cut in half and at least eight families will watch as the bulldozers raze their homes. How can an agency look an 82-year-old man in the face knowing that he will lose his home and the property that he has worked all his life and say this is the right proposal for this connector? Where's a balance between environment and man?

The east-west private highway feasibility report will be completed by Jan. 15, 2013. "Such a route would remove nearly all of the existing traffic off of Route 9, as well as cut projected future traffic on Route 1 by roughly 2,300 vehicles per day below current levels," according to the MDOT 1999 Executive Summary, http://www.maine.gov/mdot/1999eastwesthwystudy/reportlinks.htm.

Where's the traffic issue on Route 9 if nearly all the existing traffic is removed by an east-west highway?

The study group, under the management of the MaineDOT/FHWA, has managed to spend in excess of $1.7 million dollars to reach a conclusion that an alternative thrown out two times 10 years ago by the same study group now "best satisfies the study purpose and needs" for this connector. Really? *Update 9.04.15: $2.75+ million has been spent to date since this OPED.*

Bangor Daily News LTE dated 4.07.13:

Road 'cents'

This letter is in regards to the condition of the roads and bridges Mainers travel on every day.

Throughout the state, approximately one in three miles of major locally or state-maintained roads and highways have deficient pavements, providing motorists with a rough ride, according to an October 2012 report by TRIP. TRIP is a nonprofit organization that works to promote policies designed to improve traffic conditions.

The report also states that rough roads cost the average Bangor driver $375 annually and that in the Bangor urban area, 18 percent of major urban roads are rated in poor condition; 22 percent are rated in mediocre condition; 27 percent are rated in fair condition; and 33 percent are rated in good condition.

Nearly a third — 30 percent — of Maine's bridges 20 feet or longer are currently rated as structurally deficient or functionally obsolete. Fourteen percent of Maine's bridges 20 feet or longer are rated as structurally deficient. Sixteen percent of Maine's bridges are rated functionally obsolete, according to the organization.

Maine's traffic fatality rate on rural, non-Interstate routes is approximately seven times higher than on all other roads and highways in the state. Ninety percent of all traffic fatalities in the state in 2010 occurred on rural, non-Interstate roads, TRIP reported.

According to the Maine Revenue Forecasting Committee, the Maine State Highway Fund has a $20.3 million dollar shortfall for the 2014-2015 biennium.

Our infrastructure is falling apart around us.

We should not be spending our limited state and federal tax dollars on the I-395/Route 9 connector project or any other new project, while we are forced to drive every day on deficient roads and bridges.

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

Larry Adams

Brewer

Bangor Daily News LTE dated 2.24.15:

Wrong road priorities

After attending the Legislature's Transportation Committee's work session on LD 47, I now understand why many lose faith in their elected representatives and the process itself. The Transportation Committee is supposed to provide oversight to the Maine Department of Transportation for Maine citizens, but it behaved more like an arm of that department.

Sentiments of elected leaders of Brewer and Eddington who strenuously objected to the proposed route multiple times and years of hard work by earnest area citizens choosing a route that made the most sense with the least adverse impact were cast aside as irrelevant.

The study system linkage need was quantified in the Final EIS: "Alternative 2B-2/the Preferred Alternative would further the study's purpose and satisfy the system linkage need in the near term (before 2035)." This project's design life is 20 years and (before 2035) is 2B-2's use by date. Add 20 years to today's date; each day exceeding December 31, 2034 is a day that 2B-2 does not satisfy the system linkage need in the near term or long term, even before construction. With project completion several years away, 2B-2 does not and cannot satisfy purpose and needs for the project's entire 20 year design life.

Over the next three years, MDOT's highway and bridge programs will experience a shortfall of approximately $119 million per year, including $70 million in unmet bridge needs per year. The fact is that basic transportation priorities will remain unmet because of MDOT's strange fixation on a deficient route that many question the need for.

Larry Adams/*Brewer*

Spending $61 million on a deficient project at a time when this state has a $119 million per year shortfall in the current MaineDOT Work Plan—that includes a shortfall of $70 million per year in unmet bridge needs—is fiscally irresponsible, shortsighted and defies logic.

Alternate LTE—submitted 2.23.15—what they didn't post.

The Final EIS is based on a LIE

Hidden behind political agendas, the lack of oversight and accountability is one simple fact, the I-395/Route 9 Transportation Study Final EIS is based on a lie; if there's one lie, you have every expectation there are more.

Construction cost, most critical to this project, has been deliberately falsified in the DEIS/FEIS to further MaineDOT's efforts to market 2B-2. These charges are easily proven in FOAA documents including the intent to downgrade the design criteria following the NEPA process, yet apply that reduced cost up front in the DEIS.

2B-2's construction cost "prepared using the DOT's freeway criteria" is $93.24 million, as stated in a December 06, 2011 Letter from Gannett Fleming to MaineDOT (FOAA).

MaineDOT Chief Engineer ordered a one-third cost reduction, based on rolling design via MaineDOT Memo dated January 30, 2012 (FOAA).

YET, FEIS-stated-cost is $61 million based on FEIS-stated "MaineDOT design criteria for freeways". That is a $32.24 million dollar disparity based on the same freeway criteria.

Is the lie, the cost or the design criteria? Are these actions within National Environmental Policy Act compliance?

Fancy reports have cost us $2.75 million; now, MaineDOT worries the state will have to repay those funds if 2B-2 does not go to construction; the fact is their continued lack of transparency and the total lack of accountability is how we got here.

I now understand why so many lose faith in their elected representatives and the process itself. This charade needs to end; 2B-2 needs to be removed from further consideration.

Larry Adams/Brewer

Bangor Daily News LTE—submitted 8.27.15:

What's the long-term cost of 2B-2?

The original and still valid system linkage need and the need for limited-access connection between I-395 and Route 9 east of Route 46 were unceremoniously transformed to long-term needs in Sept2010; facilitated by superseding the original eastern logical termini criteria of "Route 9 east of Route 46" with "the portion of Route 9 in the study area".

How does the state propose to satisfy these long-term needs, triggered by the problematic selection of an alternative not meeting Purpose and Needs in the first place?

A downgraded 2B-2 may be the cheapest to initially construct, but what happens in 20 years, when 2B-2's long-term needs kick-in?

2B-2's estimated cost is $61 million in 2011 dollars; what will the additional 4 or 5+ miles of new roadway, essential to establish the long-term limited-access connection to the east of Route 46, cost in 2035-2040 dollars OR is the plan simply to remove local access from that specific 4.2 mile section of Route 9 by then?

We can't afford to maintain existing roads and bridges, and the 2015-2017 highway and bridge programs incorporate an annual $119 million shortfall ($357M), including annual unmet bridge needs of $70 million ($210M); yet 2B-2, a short-term band-aide fix that will unquestionably cost $Tens of millions to meet future long-term needs, marches on…

Championing a downgraded, deficient alternative by kicking project needs down the road so your grandchildren can pay for them is fiscally irresponsible; all new project funding should be immediately re-appropriated to meet Maine's existing unmet transportation needs.

Larry Adams/Brewer

Shouldn't a plan on how to meet long-term project needs be required in the FEIS? Isn't that a direct impact to this project? Shouldn't that extra cost be incorporated with the initial $61 million cost upfront to fairly compare 2B-2's total cost to all 79+ studied alternatives?

State of Maine Statutes—Title 23 & Title 17A

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.

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.

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.

"…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…"

Someone needs to held responsible to answer why the DEIS/FEIS-stated cost is not based on the DEIS/FEIS-stated design in the same document.

After serving my country for over 41 years, it's difficult for me to comprehend how a government founded by the people is not accountable to the people. At a time when many of our future government leaders were getting military deferments in the 60's, I voluntarily joined the Air Force at age 17—I am a proud Viet Nam veteran—I paid my dues—I will be heard and deserve nothing less. The moment to demand accountability for private citizens and their municipal leaders—impacted by this ill-conceived project—is now.

I contend that this project was noncompliant with NEPA and in that process violated at least one state of Maine statute—prove me wrong! This study should go to the DOT Inspector General for validation. Taking this project to construction without addressing 2B-2's many problems will surely tarnish future governmental interactions within the impacted area—no one appreciates being ~~steamrolled~~ ignored…

This seems to be merely a game to those that are holding all the cards. The deck is so heavily stacked against the private citizen that you don't stand a chance of engaging in the process; they won't even talk to municipal leaders, let alone me. We are invited to take part in a process that we now learn is nothing more than a predetermined check-in-the-box, much as with this STIP comment period. Years ago, we laughed over that silly word "substantive" when sending in our DEIS comments; that silly word kept 99% of our questions and concerns buried forever in the back of the book, unanswered.

MaineDOT/FHWA officials controlled the conversation as judge, jury and executioner, deciding what they were willing to talk about and what they would not. Prior historical data detailing 2B's increased potential for new safety concerns/hazards caused by Rte. 9's shortcomings and forewarnings of how 2B-2 will negatively affect people and severely impact communities have been simply ignored…

Many of us are in our senior years, retired, living on fixed incomes with all expectations that our property values will soon plummet when the bulldozers come. I personally know two families that will

watch as their homes are flattened. Our quiet neighborhood will be quiet no more—forever changed—our cherished quality of life, that I went to war almost 50 years ago to guarantee, will be diminished, yet—Augusta will still not answer our questions or even listen to us…

What's it like to be impacted by this project? I could deal with being impacted if 2B-2 actually satisfied the original study Purpose and Needs taking this alternative all the way to the east of Route 46; however, being impacted by a project that does not meet the expectations that were clearly defined for the majority of the duration of this study is hard to live with. We have had this cloud of uncertainty over our heads for 15 years; we can't sell our homes without adding the caveat that a highway may be coming soon. The state has basically placed us under house arrest—again—through no fault of our own.

2B-2 is the wrong solution at the wrong time.

I offer the following newsletters as additional comments to the STIP:

http://i395rt9hardlook.com/wp-content/uploads/2014/02/MAR-2014-Everything-you-always-wanted-to-know...FINAL_.pdf

http://i395rt9hardlook.com/wp-content/uploads/2014/07/July-2014-newsletter-FINAL.pdf

http://i395rt9hardlook.com/wp-content/uploads/2014/10/Aug-2014-newsletter-FINAL.pdf

http://i395rt9hardlook.com/wp-content/uploads/2015/02/Testimony-Adams-2.3.15.pdf

http://i395rt9hardlook.com/wp-content/uploads/2015/01/FEB-2015-Newsletter-final-1.30.15.pdf

http://i395rt9hardlook.com/wp-content/uploads/2015/02/FEB-2015-Newsletter-Supplement.pdf

http://i395rt9hardlook.com/wp-content/uploads/2015/08/Newsletter-AUG-2015-FINAL.pdf

http://i395rt9hardlook.com/wp-content/uploads/2015/08/August-Newsletter-Supplement-8.16.2015.pdf

For further information: website set up/maintained by/for private citizens of the impacted communities .

Please feel free to contact me for clarification of my comments or to ask for references to any material that I offer within this document.

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