

Governor-elect Janet Mills
C/O Zachary Holman
Office of Governor-elect Janet Mills
Burton M. Cross Building | Room 105

Dear Governor-elect Mills,

November 18, 2018

Congratulations on a well-deserved victory. My name is Larry Adams; I am a 70 year old retired federal civil servant and a Vietnam Veteran. The quality of life that I worked so hard to obtain will soon diminish, through no fault of my own. I have been marginalized by state and federal civil servants every step of the way in my efforts to bring out the truth about a local transportation project. I have had state legislators turn their backs on me to achieve their own political, personal and business agendas and ignored by MaineDOT and FHWA officials, many of whom were significantly less than truthful over this 18 year process.

Impacted by the preferred alternative (2B-2) for the I-395/Route 9 Connector, the following document offers your transition team a glimpse of my interactions with a dysfunctional LePage/Bernhardt DOT and the controversial selection of an alternative that fails to meet the acknowledged system linkage need criteria.

2B-2 does not satisfy the “Route 9 east of Route 46” limited-access system linkage need. SO—that need was changed to a long-term 20 year need, an “in the near-term” disclaimer was created and “east of Route 46” was parsed to “the portion of Route 9 in the study area.” 2B-2 is a near-term project with no long-term benefit—just a costly retrofit in 20 years to bypass that same 4.2 mile segment of Route 9 that 2B-2 employs to meet the near-term system linkage need. This shortsighted failure to comply with long-term needs from the onset shamefully transfers an unfunded transportation need to the next generation.

2B-2 will cost \$79.25 million to construct—when—the state cannot afford to even maintain our existing roads and bridges—let alone build new ones.

I wish you good luck and optimistically look forward to your next 8 years.

Larry Adams

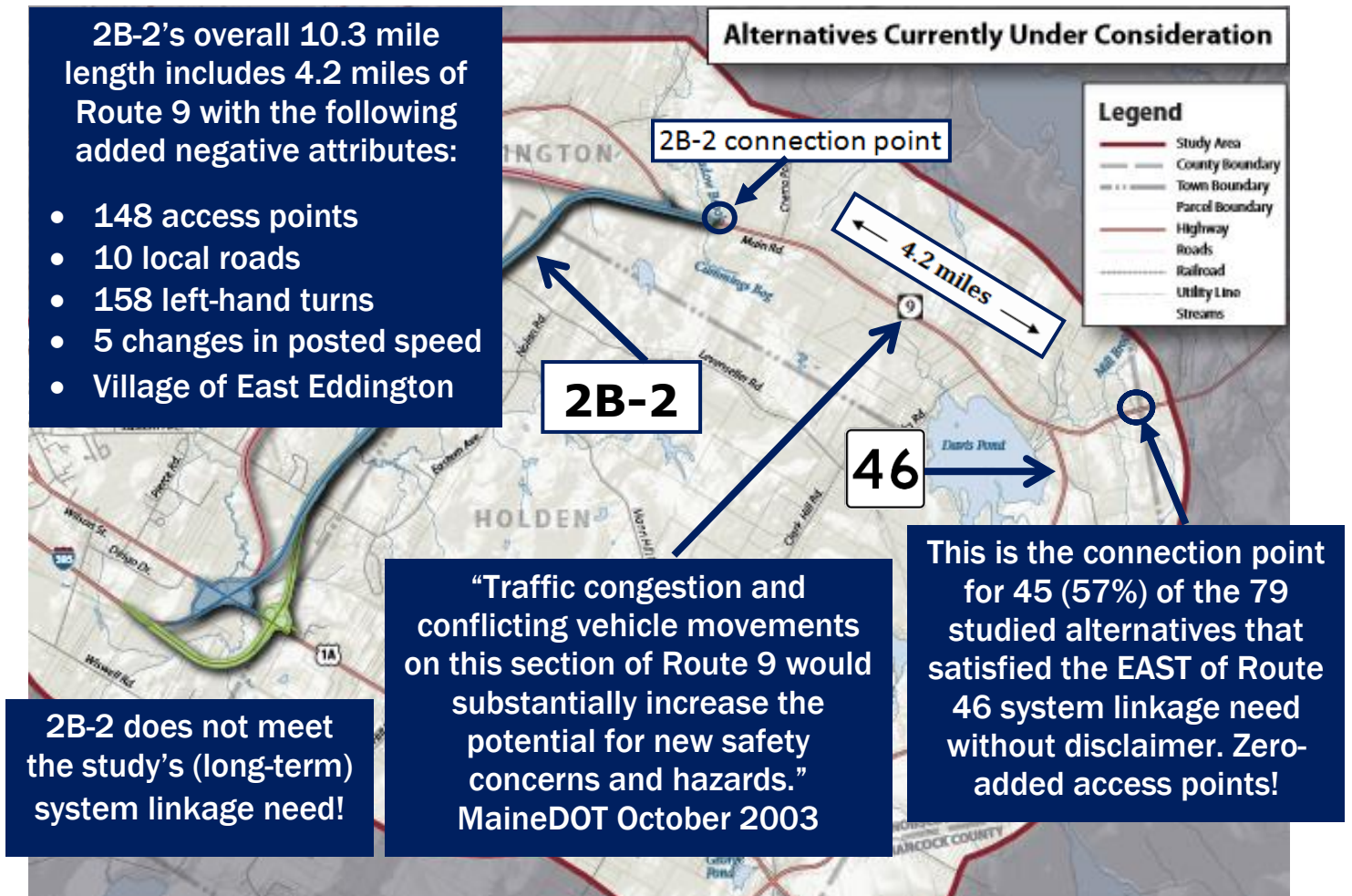
A hard look at the I-395/Route 9 connector study

A private citizen takes a hard look at a dysfunctional process and the selection of a controversial alternative in a one-sided process; a process that was supposed to treat communities as equals and analyze all alternatives with identical criteria. 2B-2 does not meet the east of Route 46 system linkage need, yet is the preferred alternative for a \$79.25 million project—at the same time—the MaineDOT cannot afford to maintain our existing roads and bridges.



**Larry Adams
Brewer Resident
November 2018**

Map of alternatives from the MaineDOT study website circa January 2012:



- 45 (57%) of the 79 studied alternatives satisfied the east of Route 46 system linkage need without requiring the near-term disclaimer that 2B-2 requires.

2B-2 connects to Route 9 approximately 4.2 miles to the west of the EAST of Route 46 system linkage need—thus 2B-2 satisfies the study system linkage need **only** with the following DISCLAIMER: “in the near-term (Year 2035)”. Since the roadway design-life is 20 years, the year within parenthesis will change to the year of commissioning + 20 (i.e. 2045). 2B-2 has no long-term benefit.


“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.” [April 15, 2009 PAC Meeting](#)



Posted Speed Limit of 35 through Village of East Eddington (0.8 miles)

The 4.2 mile section of Route 9 was bypassed by 45 of the 79 studied alternatives—now that same identical section of Route 9 is an integral part of alternative 2B-2. Route 9 is 40.8% of the overall length of 2B-2.

How did 2B-2 become the preferred alternative when it only satisfied 1 of 5 (20%) of the purpose and needs in April 2009? 2B-2 will cost \$79.25 million; wouldn't that be better spent on Maine's current unmet transportation needs?

<i>I-395/Route 9 Transportation Study</i> 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

This [Matrix](#) was part the April 15, 2009 PAC meeting handout.

I maintain a private citizen's website: ["I-395/Route 9 Hard Look"](#) built upon facts gleaned from MaineDOT's I-395/Route 9 Transportation Study website, FOAA documents and a whole lot of research—I stand by the facts I present and since the MaineDOT deleted their own study website, my website is the only website available that has a complete unvarnished history of this study back to the year 2000. What is alternative 2B-2? [Here's your answer.](#)

I recommend contacting Steve Bost (Brewer's City Manager) or Jerry Goss (Brewer's Mayor) to confirm my veracity. My expectation is that this material will start a conversation with you and your transition office on where I believe 2B-2 fits into your proposed infrastructure policy. Many of us share the same view in Brewer—this project squanders Maine's limited transportation dollars.

Why is the MaineDOT so willing to spend your money on a deficient alternative?

FEIS definition of alternative 2B-2:

Alternative 2B-2/the Preferred Alternative would bridge over Felts Brook in two locations at the I-395 interchange. It would pass underneath Eastern Avenue between Woodridge Road and Brian Drive...would bridge over Eaton Brook, bridge over Lambert Road, pass underneath Mann Hill Road, and bridge over Levenseller Road connecting to Route 9 at a “T” intersection (exhibit 2.6). Route 9 eastbound would be controlled with a stop sign.

Alternative 2B-2/the Preferred Alternative would further the study’s purpose and satisfy the system linkage need in the near term (before 2035)...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 [an integral part of alternative 2B-2] 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.

2B-2 is 4.2 miles of Route 9 and 6.1 miles of new alignment for a total length of 10.3 miles from I-395 in Brewer to Route 9 at/or near the Clifton/Eddington border. Route 9 is 40.8% of the overall length of 2B-2. Any deficiency existing on this segment will impact the whole 2B-2 alternative.

“However, future development along Route 9 in the study area can impact future traffic flow and the overall benefits of the project.” (DEIS page s19)

These are MaineDOT’s own words from the March 2012 DEIS. This should have been a disqualifying statement!!

What would happen next? The MaineDOT deliberately “scrubbed” it from the FEIS!

[Click here to view FEIS Page 26](#)

[Click here to view DEIS Page s19](#)

Why is the MaineDOT willing to spend \$79.25 million on an alternative (2B-2) that does not satisfy long-term system linkage needs—and in their own words: would substantially increase the potential for new safety concerns and hazards—would not provide a substantial improvement in regional mobility or regional connectivity—would negatively affect people and severely impact local communities? When I voiced these same concerns in DEIS comments, MaineDOT officials marked them “not-substantive”. When the MaineDOT’s previous statements don’t fit the current agenda—they are simply discounted.

The I-395/Route 9 Transportation Study (PAC #1) started in September 2000, after earlier conversations in 1999, to come up with a project to relieve logging-truck traffic from Route 46, a short-cut to the Bucksport Paper Mill. At what would become the final PAC meeting held in April 2009, 2B-2 met only one in five (20%) of the study purpose and needs—at the same time that 3EIK-2 (the DOT and FHWA preferred alternative) and four other alternatives satisfied all five study purpose and needs. The primary need of this project—system linkage—was to provide a **limited-access** connection from I-395 in Brewer to Route 9 at the Eddington/Clifton corporate boundary, **east of Route 46**. The DOT used the word **MUST** as can be seen in their well-documented system linkage need determination: [October 2003 Technical Memorandum](#)

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

It was no accident that the original system linkage need stipulated a northern Route 9 connection to the east of Route 46; the 35 mph section of Rte. 9 thru the historic Village of East Eddington and intersections of Routes 9/46 were intentionally bypassed by the study system linkage need criteria. YET, 2B-2's Rte. 9 connection is 4.2 miles to the west of the Eddington/Clifton corporate border. Squandering \$79.25 million of our limited transportation dollars to construct this connector without bypassing the Village of East Eddington and the Route 9/46 intersection at the same time is extremely shortsighted.

What did our transportation professionals have to say about alternatives that failed to satisfy the long-term Route 9 EAST of Route 46 system linkage need?

MaineDOT/FHWA/ACOE officials warned: [October 2003 Tech Memorandum](#)

- “would not provide a substantial improvement in regional mobility.”
- “would not provide a substantial improvement in regional connectivity.”
- “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.”

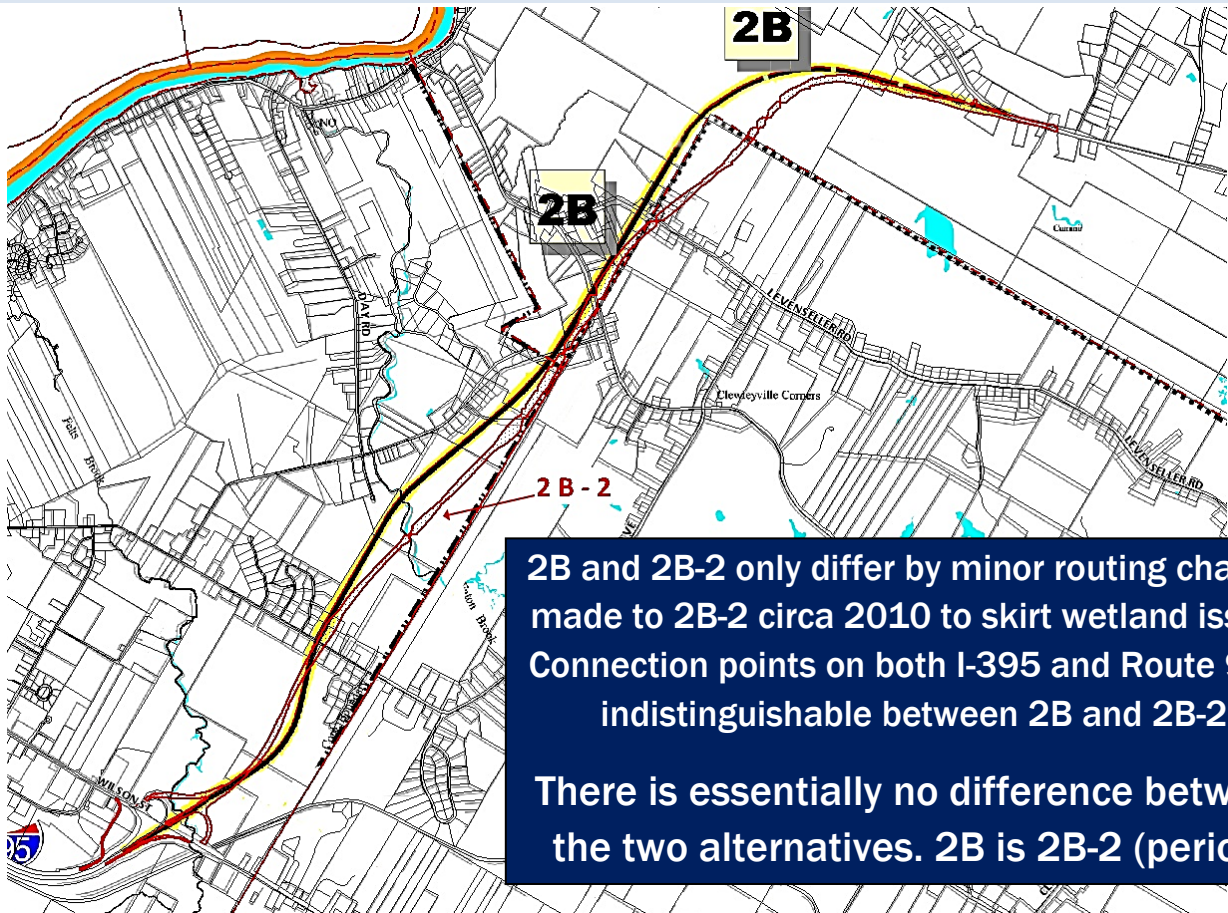
So—you may ask, why does the MaineDOT in 2018 ignore their own words from 2002 from some of the same professionals that were still working on the study? Why would the MaineDOT—with intent—negatively affect people on about a 10 mile section of Route 9 and severely impact the community on a 4.2 mile segment of Route 9? Don't they care anymore now as they once did in 2003?

The foundation of this study's system linkage need was: “To meet the need of improved regional system linkage while minimizing impacts to people.” By selecting alternative 2B-2, the MaineDOT has intentionally maximized the impact to people and that is in MaineDOT's own words, not mine!!

What did these same MaineDOT/FHWA transportation professionals say about an alternative (2B), removed from consideration in early 2003, that used the same identical section of Route 9 as alternative 2B-2 uses in 2018 to meet the system linkage need “in the near-term”? [October 2003 Technical Memorandum](#)

- “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.”
- “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.”
- 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). Note: 3EIK-2 was the first MaineDOT/FHWA preferred alternative.
- This alternative would not be practicable because it would fail...to adequately address the traffic congestion needs in the study area.

Déjà vu—there should be no doubt that 2B-2 is just 2B all over again...



Original map dated June 2002 from [PAC meeting #12](#). All routes—except 2B—were digitally removed and 2B-2 GIS data added by Gretchen Heldman.

Description of Alternatives 2B and 2B-2
in the [DEIS Appendix C](#):

**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)

If the following was MaineDOT's concern in February 2002:

“Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards.” Why is this not a concern in 2018?

What are they thinking?

- My [comments to the DEIS](#), addressed the negative attributes of the Route 9 segment of 2B-2 as [stated by the MaineDOT](#). My comments were judged as [not substantive for comment](#) and never answered.

MaineDOT's own words imply that every single person living on 4.2 miles of Route 9 between the two mapped points below representing near-term and long-term will be severely impacted.

"Prior to the eleventh PAC meeting on February 20, 2002, the system linkage need **System Linkage Need** 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. Alternative

"...while minimizing impacts to people..."

How does MaineDOT reconcile their own words from February 2002? mobility and connectivity and would negatively affect people living along Route 9 in the study area. Alternatives that would connect to Route 9 west of Route 46 would severely impact local communities along Route 9 between proposed alternative connection points and Route 46. Alternatives providing a direct connection between I-395 and

By definition: 2B-2 would severely impact local communities along 4.2 miles of Route 9.

between Cummings Bog and Davis Pond. Such alternatives meet the intent of the East-West High-way Initiative." [Oct2003 MaineDOT/FHWA/ACOE Technical Memorandum](#)



We desperately need someone to come forward to challenge the MaineDOT and demand real answers to why this section of Route 9 was considered so dangerous in 2003, and yet now in 2018 these same documented problems still exist and are questionably ignored. The 10 roads, all the left turns and the access points (148) still exist yet are no longer recognized as a safety issue!!

- MaineDOT's previous statements should have disqualified alternative 2B-2.

December 2011—The study went quiet following the April 2009 PAC meeting and we pretty much forgot about the connector until I discovered in a new map inset on the MaineDOT study website missing the presumptive preferred alternative (3EIK-2) and the other four alternatives from April 2009 that had satisfied the study purpose and needs. An immediate email to the MaineDOT project manager confirmed that the project had been turned on its head.

March 2011, 9 months earlier, I had emailed that same MaineDOT project manager to request a project update and was not given this “disturbing news” even though we would find out later in FOAA documents that this change was put into effect as early as September 2010. If, you prescribe to the tenet that intentionally withholding the truth is nothing more than a lie, then that was the first time I was directly lied to by MaineDOT management.

I addressed the project manager's “lie” in letters and emails to MaineDOT officials and no one, including the MaineDOT Commissioner, had the decency to answer to their own manager's intentional withholding of critical information, let alone offer an apology. SO—now I was lied to and I had the first inkling that the MaineDOT would not be held accountable for any of their actions—then, now and in the future...

MaineDOT officials have intentionally withheld information and been untruthful.

The PAC was not consulted on 2B-2's changes and in fact the PAC was never repaneled again following the April 15, 2009 PAC meeting; the PAC was listed in [Appendix B of the DEIS](#) as if they were part of the final decision—they were not—they were simply used like many of us. “Brewer City Planner Linda Johns... said this week that the countless hours local committee members spent working on the connector project over nearly 12 years have been ignored. I have been disappointed in the entire process of this project...I felt the PAC was only there to check a box on the checklist and that decisions were already made by DOT and other agencies.” [Bangor Daily 1/05/2012](#)

**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'Connell
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 13, 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: *Camela J. Ryan*
Camela J. Ryan, City Clerk
Brewer, Maine

The Brewer City Council and City Manager were not advised of the study's changes, let alone asked to the table to take part in the decision-making process. From April 2009 until mid-Dec 2011, a period of some 32 months, the MaineDOT quietly worked under the radar to come up with the 2B-2 selection they had to know would be insulting to Brewer's officials and citizens. The Brewer City Council would unanimously resolve their non-support of 2B-2 three times since January 2012.

- Brewer officials supported the NO-build alternative in opposition to 2B-2.

The MaineDOT decided to brief each of the three impacted communities with the understanding they would address elected officials only. After a few days of back and forth demands, DOT officials cancelled the meetings promising answers to our questions would be forthcoming at the May 2012 public hearing.

By [Nok-Noi Ricker](#), BDN Staff • January 10, 2012 (excerpt of original article)

BREWER—The proposal that Maine transportation officials recently [selected as their new preferred connector route](#) to link Route 9 and Interstate 395 does not meet the state's own criteria, resident Larry Adams told the City Council on Tuesday. "Does it pass the study purpose? Well no," he said. "Does it meet the [U.S.] Army Corps of Engineers purpose? No."

Adams, who two weeks ago informed Brewer city leaders about the MDOT's new preferred route, went on to show the state's data from the last Public Advisory Committee meeting in April 2009 that shows the state's new preferred route — 2B2 — does not meet the system linkage issue and doesn't solve traffic congestion. "Isn't that rather odd that something that doesn't pass four of the five needs" is the preferred choice, Adams said.

"According to the route comparison, 2B2 does not satisfy the purpose or needs of the study, it exceeds the design criteria and it displaces 22 residents," Adams said later, reading from a July 2004 Bangor Daily News article. "The 3EIK-2 route meets all of the DOT study requirements and displaces only two homes." The state selected 3EIK-2 as its preferred route in 2003 and recently changed to 2B2, the route preferred by Holden.

Former City Councilor Manley DeBeck, who was the council's representative on the public advisory committee and worked on the project for nearly a decade, said after the last committee meeting, "it sounded like, at least to me, that it would be put on the shelf" because of the lack of federal funding. DeBeck went on to say, "I smell a rat."

The MaineDOT was “embarrassed” into issuing a [written apology](#) in the BDN for their intentional and shameful lack of communication skills—yet did not apologize for denying Brewer a seat at the table in the decision-making process.



MaineDOT apologizes for not informing communities of I-395/Route 9 plan

By [Dawn Gagnon](#), BDN Staff • January 6, 2012 (excerpt)

AUGUSTA, Maine — State transportation officials issued a statement Friday in response to local reaction to the [drastic change of plans](#) for the proposed I-395/Route 9 connector project.

In a statement emailed to the Bangor Daily News on Friday by MDOT spokesman Ted Talbot, “The Maine Department of Transportation ... regrets the insufficient outreach by MaineDOT to leaders of the affected communities along the proposed I-395 US Route 9 connector,” the statement read. “Town officials and the residents of Brewer, Holden, Eddington and Clifton deserve to be fully informed of all decisions and progress. We recognize that it is our obligation to do so, and we will rectify this situation in the future.

“In the coming weeks, MaineDOT officials will refocus on the public process in which residents will have ongoing opportunities to provide feedback including review of the draft environmental impact statement and public hearing(s) as needed. We look forward to hearing from all interested parties,” the statement concluded.

- Even as they were apologizing, the MaineDOT was still intentionally withholding changes in design criteria we would not learn about until the [March 2013 FOAA](#) release thus we were unable to address them in the DEIS.

I meticulously composed [37 essay-length questions](#) for submission to the DEIS and readied myself to testify at the May 2012 Public Hearing. Our frustration over the lack of answers was evident as reported by the [BDN on 5.02.2012](#).



**Residents
unhappy with
lack of answers
on I-395-Route 9
connector**

**"...2B-2 is virtually
the same as the 2B
route MDOT
eliminated from its
list of 70-plus
alternatives in late
2002..."**

"Though officials from the Maine Department of Transportation, the Federal Highway Administration and the Army Corps of Engineers offered introductory remarks and brief project recaps, they did not respond to questions or comments during the more than two-hour hearing, which their moderator described as a "listening session." The lack of give-and-take frustrated some attendees I was hoping to get some answers...Adams, who has been following the project closely...before reading a prepared statement pointing out what he sees as [inconsistencies](#) among project-related documents."

The MaineDOT has never been present at a hearing where they would have to directly address the viability of alternative 2B-2, they only had to run out the clock and that is what they have done and still are doing. OH—almost all of my questions submitted to the DEIS (earlier promised to be answered) were considered "not substantive" by the MaineDOT and were never answered.

[FOAA documents](#) over the next 2 pages confirm that the FHWA project manager in December 2011 advised MaineDOT's project manager that the preferred alternative (2B-2) no longer met study purpose and needs with newly discussed "downsized" criteria and further comparison of the preferred alternative (2B-2) to any other of the 78 alternatives was an "apples to oranges comparison". Silenced by own superiors, his concerns should have easily disqualified 2B-2.

FHWA: “Preferred Alternative does not satisfy the Purpose and Need.”

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

December 16, 2011

000131

To: Herb Thomson and Ken Sweeney
From: Judy Lindsey

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

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

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

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

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

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

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

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

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

"NEPA analysis w/ footprint change

12/14/2011 03:29 PM

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

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

000132

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

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

“Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative [2B-2] 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 [MH] questioned the identification of the logical termini.”

[Click here to view the FOAA Documents relating to this subject:](#)

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

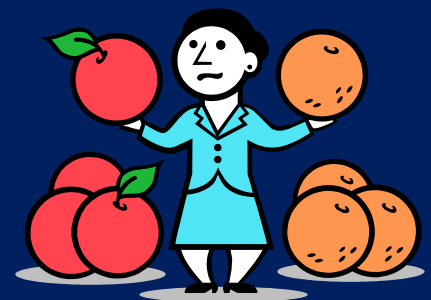
000178

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.”



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

The MaineDOT sees no problem spending \$79.25 million of our limited transportation funds to construct a road that a FHWA manager claimed no longer met purpose and needs! We are being impacted by a project that should have never been, while Maine cannot afford to maintain their roads and bridges.

The MaineDOT will say that they have “right-sized” this project, but these actions occurred after 2B-2 was basically the only alternative left; 5A2B-2 and 5B2B-2 were essentially fodder. The MaineDOT did not go back and take a second look at any of the other 76 alternatives with the “right-sized” downgraded engineering criteria such as the change from interstate criteria to rolling rural, eliminating the future build-out to a four lane divided road and minimizing ROW.

The original study system linkage need was in compliance with the [December 2005 Notice of Intent to proceed with the EIS](#). I contend that the NOI, an official federal government document, was discounted and ignored when the FHWA approved the change in the northern logical termini allowing 2B-2 to terminate on Route 9 some 4.2 miles to the west of the study’s original logical termini. FOAA documents prove this manipulation and it was head-shaking to see how our FHWA officials parsed words in the NOI to change that criteria and how these officials are able to operate without accountability to the public that they are sworn to serve and protect. The logical termini wasn’t changed until January 2012, for inclusion in the DEIS—that change diminished the study’s original eastern logical termini from a specific “Route 9 east of Route 46” to “the portion of Route 9 in the study area.” It was shocking that they didn’t realize, until time to publish the DEIS, that the original logical termini would not allow for the selection of 2B-2—so—they changed the study to give the appearance that 2B-2 met purpose and needs—that action subsequently removed any long-term benefit from this project. See FOAA documents on the next two pages:

What the NOI said and how the FHWA parsed it to make 2B-2 fit study.

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.

The NOI clearly stated: "...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:

"...Specifically, the eastern logical termini was refined. Alternatives that did not connect to Route 9 east of Route 46 were dismissed from further consideration."
(PAC Meeting # 11 on 2.20.2002)

Federal Register: [Click here and view the following pages \(page 72144/72145\)](#)

Logical termini definition: [Click here and view the last paragraph on page 6.](#)

December 16, 2011

000131

To: Herb Thomson and Ken Sweeney
From: Judy Lindsey

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

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

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

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

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

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

"...he [MH] questioned the identification of the logical termini."

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

FHWA parsed NOI and logical termini to make 2B-2 fit the study:

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

000394

- Mark Hasselmann's and Cheryl Martin's Comments

- Page 31 - The logical termini of the build alternatives needs to be in Chapter 1. The logical termini of the build alternatives were identified and defined to consist of (1) I-395 near Route 1A and (2) the portion of Route 9 in the study area to satisfy the project purpose and need. The NOI stated that the project would take place Route 395 to Route 9 in Clifton from the west to east through Eddington, but did not use the term "logical termini." MaineDOT will check with Cheryl to clarify the comment.

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

000501

Hi Cheryl,

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

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

"The logical termini of the build alternatives were identified and defined to consist of (1) I-395 near Route 1A and (2) the portion of Route 9 in the study area."

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

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

The FHWA was instrumental in the morphing of the logical termini from "Route 9 east of Route 46" to "the portion of Route 9 in the study area."

If 2B-2 doesn't fit the study—just make the study fit 2B-2!

"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 NOI parsed 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 study's purpose and need"? It certainly looked like the MaineDOT/FHWA made alternative 2B-2 fit the Study Purpose and Needs. 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. That's not the federal government that I knew...

You need to understand the significance of what the FHWA did!

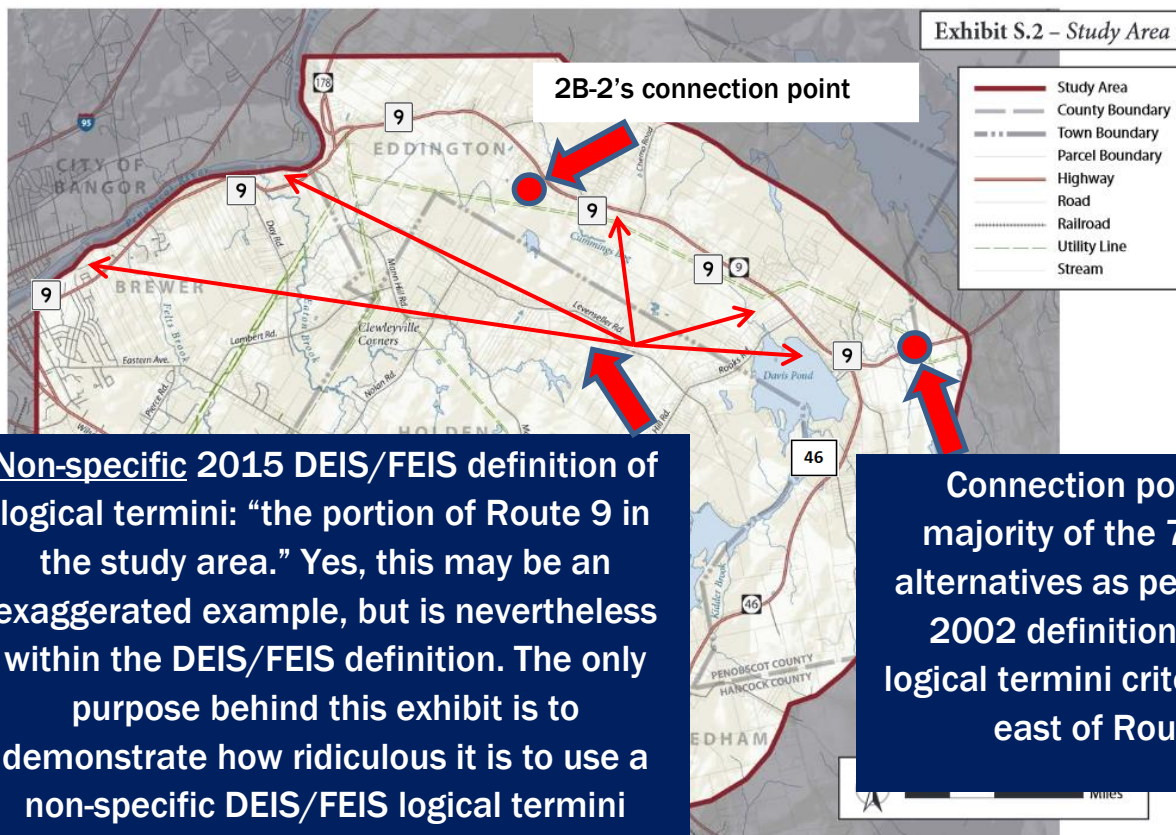
How did we get from here
in 2002

“...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.”

to the present?

“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.”

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



Non-specific 2015 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 2002 definition of eastern logical termini criteria: “Route 9 east of Route 46.”

The MaineDOT and the FHWA decided, based on the fact that the NOI “did not use the term logical termini”, they could parse (manipulate) the 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 an unspecific: “the portion of Route 9 in the study area”.

- If the alternative doesn’t fit the study, just change the study to fit the alternative.

Were the impacted communities treated equally in the process? Apparently not: “The original 4B route was eliminated by the study team after a series of meetings held outside the PAC with the Town of Holden and some of its more influential citizens, many of whom feared a drop in commerce along Route 1A if 4B were selected as the preferred alternative. The justification provided to the PAC was that the earthwork costs for 4B were high, and that the route lacked public support. This seemed contradictory, given the high yet apparently acceptable environmental and neighborhood costs associated with remaining alternatives, and the very strong REGIONAL support for 4B because of its unique status as a regional connector to both the Downeast-Acadia region and Route 9. Route 4B also presented reduced residential and “proximity” impacts compared to other alternatives.” [Letter sent from S. Duchesne to R. Faucher 1.28.2003](#)

- Downgrading from interstate criteria, as identified in the DEIS/FEIS, to rolling rural criteria significantly saves earthwork by allowing an increase in allowable grading, but 4B and the 44 other alternatives that satisfied the study’s purpose and needs were never reconsidered with the rolling criteria.

The three impacted communities were not treated equally. The MaineDOT intentionally left the PAC out of the discussion in this deeply flawed process; separate meetings were not supposed to take place outside of the PAC. It appears the MaineDOT may have favored the most “influential” community.

The MaineDOT will tell you they took a “hard-look” at Route 9 that enabled the 2B-2 selection. I contend study criteria was altered to enable the selection of 2B-2, it’s that simple, but I contend outside of the boundaries of the NEPA process—as all 79 alternatives must be considered using the same identical criteria. The NEPA process does not permit changing project needs just to make an alternative viable!! The MaineDOT will claim they didn’t make any changes.

I have actively opposed this project since December 2011 and have written many state and federal legislators since, supplied written input to the DEIS in 2012, gave oral testimony at the May 2012 Public Hearing, gave written and oral testimony at the JSC Transportation supporting LD 47 (legislation to remove 2B-2 from consideration in February 2015), provided written testimony to the STIP in September 2015, and written and oral testimony at the BACTS meeting of March 2016; I have written the OIG several times, written to the FHWA NEPA point of contact at Washington Hdqs. and have even written the White House and the Maine State Auditor's Fraud Hotline—all my efforts were for naught—I have not received answers for the majority of the questions that I have asked since December 2011—especially at the state level—the MaineDOT feels no accountability to any private citizen and their duly-elected city officials.

The MaineDOT effectively controlled the conversation, determining what the MaineDOT alone would deem as substantive, discarding the rest. The study was a sham, a shell game and a waste of \$2.3 million over the first 14 years. To ignore the first whole decade of this study, to ignore concerns of private citizens, and to keep municipal officials in the dark and out the decision-making process is worrisome at best. MaineDOT (Rollins) advised that future interactions with me would be by phone only—no more email responses 12.7.2012. What a sad state of affairs this is how the DOT functions—and it's almost treated as a joke.

The MaineDOT works within a set of state and federal regulations that most private citizens are oblivious of—IMO—the MaineDOT uses this unawareness against private citizens and their community leaders, essentially hiding behind regulations, regulations they only understand, while moving forward with their own agenda whilst ignoring those that dare to disagree. As an example—we failed to understand the legal definition of substantive—please read on:

“Many of the comments [to the Draft Environmental Impact Statement] were thoughtful and included items such as: pointing out flaws in the vernal pool identification process, alerting the MDOT to and making observations about proximity to unmapped wetlands, questions regarding scientific methodology for other habitat, cost benefit calculations for noise mitigation, safety concerns given the downgrade in design and removal of center barriers, traffic flow through the East Eddington village area, preservation of historical and archaeological resources, and more. The point is—these were not NIMBY concerns that were presented.

The MDOT and their consultant prepared responses to these comments, which you can read for yourself in their response document, along with all the letters and public hearing testimony. What we found interesting, in reading their [“Responses to Substantive Comments”](#) document, was just how many of our comments were deemed “Not Substantive” and were completely ignored. As it turns out, what we learned well after all comment deadlines, was that this term “Substantive” is in fact defined in federal legislation, and there are very specific guidelines as to what could be deemed “Substantive” and would actually receive a response. However, none of that information was available in any public hearing notice or guidelines for submitting comments – so it is very hard to be able to format one’s comments to meet those guidelines without ever having those guidelines made known, and therefore very easy for MDOT to skip all comments and just deem them not substantive. Going back to the Sensible Transportation Policy Act, this is a perfect example of not taking into account the comments and concerns of citizens and being responsive.”

—Gretchen Heldman—

Was the DEIS and the FEIS in compliance with state statute?

Title 17-A: MAINE CRIMINAL CODE

Part 2: SUBSTANTIVE OFFENSES

Chapter 19: FALSIFICATION IN OFFICIAL MATTERS

[§456. Tampering with public records or information](#)

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.
-

2B-2's construction cost is falsely declared in the [DEIS/FEIS](#) @\$61 million; that's \$32.24 million less than the actual \$93.24 million cost of 2B-2 when designed using DEIS/FEIS-stated "MaineDOT design criteria for freeways". This appears to have been done intentionally to make 2B-2 appear as a cheaper, more acceptable alternative. MaineDOT planned to downgrade design criteria from freeway to rolling following the conclusion of the NEPA process, yet the reduced cost was already incorporated in the DEIS/FEIS. Not only was the decision to include the falsified cost in the DEIS/FEIS unethical—IMO—it may not have been in compliance with Maine statute.

See [FOAA Documents](#) #000391/000392/000431

I contend (1) the NEPA process was intentionally sidestepped and (2) in turn the study team 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 same document.

Wiscasset Bypass was canceled by the Commissioner in August 2011:

- “At a time when we have difficulty finding the financial resources to maintain our existing infrastructure...Our responsibility going forward is to manage our existing obligations within our existing budget and to limit adding new infrastructure to that which is shown to provide overwhelming benefits.” [Commissioner Bernhardt/August 2011](#)
- “Adding more miles to our transportation system in this current fiscal environment doesn’t make financial sense.”
- “With current funding levels stable at best, MaineDOT concluded that the expenditure of funds on new infrastructure was not justifiable.”
- “We are struggling to maintain the roads and bridges we currently have in safe and serviceable condition.”

Any one of the above statements are as applicable today—why will no one ask the Commissioner to explain what he meant at the time and why today is any different? If anything, the economics within the transportation world may have even gotten worst over the past seven years as state and federal funds lessen. When will citizens hold their elected officials to what they say?

- 2B-2 does NOT provide “overwhelming benefits”.
- Adding more miles to our transportation system in this current fiscal environment [still] doesn’t make financial sense [in 2018].

As proof of **MaineDOT's dysfunctionality** and their refusal to speak to the merits of their decisions, I offer the following excerpts from a [Bangor Daily News](#) article dated 3.26.2016. MaineDOT/FHWA officials refused to discuss the merits of the I-395/Route 9 Connector, while refusing several suggestions for further discussions of 2B-2 before finally bullying the panel into submission. **I was in attendance that day—we were held hostage—it was a shameful abuse of power.**



Planners claim state forced them to approve I-395 connector project

By [Nok-Noi Ricker](#), BDN Staff • March 26, 2016

BREWER, Maine — The group that plans improvements to roads and transportation infrastructure in Greater Bangor voted Friday to add the controversial Interstate 395-Route 9 connector to its list of projects after being told by state officials that funding for all projects in the region would be delayed if the plan wasn't approved.

Characterizing it as a “distasteful vote” and saying they were “held hostage,” members of the [Bangor Area Comprehensive Transportation System](#)'s policy committee said they did not like being forced to approve a new three-year plan that includes the [Interstate 395-Route 9 connector](#) or risk losing \$57 million in road project funding this year for the Bangor urbanized region, which includes 10 neighboring communities.

Deputy DOT Commissioner Jon Nass said he spoke to Commissioner David Bernhardt before the meeting and wanted to stress that the connector “is a project of regional significance. It impacts the entire state.”

When asked whether the connector plan could be removed from the Bangor plan with the other projects moving forward, Nass said that was not possible.

Nass said if the BACTS committee voted down the amended plan, [which is posted on its website](#), it would mean “serious ramifications” for communities in the region that are planning on the \$57 million in funds for road projects.

“It appears that BACTS is being held hostage,” Brewer City Councilor Jerry Goss said. “It’s either do this or you’re not going to get all the other projects in town.”

Scott Rollins, assistant director of the state’s Bureau of Transportation Systems Planning, said the panel also was tying the state’s hands by not supporting the measure.

“This is not the forum to discuss the merits of the project ... [or] hold a process hostage,” Rollins said. “There are huge ramifications ... for you and for us.”

“...Bangor has no option but to support the [new plan],” Dana Wardwell, Bangor Public Works director, said just before the vote. “We feel it’s unfortunate that we’re backed in a corner, but Bangor doesn’t really have an option.”

Frank Higgins, Brewer’s city engineer, said the forced vote has “put us in a very uncomfortable position.”

“This is a very distasteful vote,” John Rouleau, Old Town Public Works director, said. “My hand is raised because there is somebody pushing it.”

Some on the committee, including Brewer Planner Linda Johns, who has been involved with the project since its 2000 inception, spoke strongly against plans for the new roadway, which would displace eight homes.

Johns said with the number of paper-related mills that have closed since work on the project began 16 years ago, traffic numbers are down and the estimated

\$61 million should be spent on other needed projects, such as improving the connection between Bangor and Bar Harbor.

Eddington planner Gretchen Heldmann and [Brewer resident Larry Adams, who is next to a home that will be razed if the connector were built](#), both made statements opposing the proposed two-lane rolling rural route. Rep. Peter Lyford, R-Eddington, spoke in favor.

Approval of the state plan is the last step before the Federal Highway Administration can issue its [Record of Decision](#).

“Watching this unfold today, in my humble opinion, is precisely why people have lost faith in government,” Brewer City Manager Steve Bost told the panel.

He described Thursday’s process as “an unyielding bureaucracy that is unwilling to listen and unwilling to move” and said state and federal officials have not listened to the communities, including Brewer which has had three unanimous City Council votes [opposing the state’s plans](#).

“I believe that if the Maine public knew what was going on in this room today, that all those projects would be essentially set aside if you do what is in your heart. I think they would be very displeased,” Bost said.

“Watching this unfold today, in my humble opinion, is precisely why people have lost faith in government...an unyielding bureaucracy that is unwilling to listen and unwilling to move...”

Steve Bost

An icy morning in March 2016 that we will not soon forget:

BDN Maine Bangor

Saturday, March 26, 2016 Last update: 4:44 p.m.

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Planners claim state forced them to approve I-395 connector project



By Nok-Noi Ricker, BDN Staff
Posted March 26, 2016, at 2:20 p.m.
Last modified March 26, 2016, at 4:55 p.m.

BREWER, Maine — The group that plans improvements to roads and transportation infrastructure in Greater Bangor voted Friday to add the controversial Interstate 395-Route 9 connector to its list of projects after being told by state officials that funding for all projects in the region would be delayed if the plan wasn't approved.

Another broken promise:

MaineDOT Project Manager, Michael Davies, was quoted by the BDN on 11.16.2000: "During Wednesday's meeting, Davies observed that reaching accord on the project would be critical to its viability. He pointed out that the route wouldn't be built unless it has the support of affected communities and area transportation agencies.

"I am not here to force this down anyone's throat," he said."

That's exactly what they did...

Front page—above the fold!!



[Click here to view Bangor Daily on-line article.](#)

The City of Brewer made it perfectly clear that the city did not support the selection of 2B-2 via resolutions in March 2012, September 2013 and January 2015. Our City officials and the resolutions were inexcusably ignored by MaineDOT officials.

I would be remiss if I didn't include Mr. Bost's complete transcript:

REMARKS BEFORE BACTS MEETING 3/25/16

STEPHEN BOST, BREWER CITY MANAGER

THE I-395 CONNECTOR PROJECT:

A \$61 MILLION DOLLAR CONUNDRUM

Members of the BACTS committee, I'm Steve Bost, City Manager of Brewer. I appreciate this opportunity to share my perspective on the I-395 connector in it's posture before you today. The City of Brewer has been consistent in its opposition to the project's current route, with the City Council twice voting unanimously in opposition, and finally out of frustration supporting the "no build" option. I have followed this project since its inception 16 years ago. Despite not being convinced of its need or functionality, local citizens, in good faith, took part in the lengthy and often complex PAC process, examining in detail all of the prospective routes to determine the best one based upon a variety of criteria. That preferred route finally emerged by consensus, 9 years after the PAC's first meeting on January 11, 2000. It was then rejected by MDOT. The project then seemed to disappear, and it was presumed dead. It then reappeared without warning, with a rejected route now the MDOT favored route. Meetings were held, op-eds written, Councils and Select Boards voiced their concerns, a bill was introduced in the Legislature by Transportation Committee member and Brewer lawmaker Archie Verow to kill the project all

together and yet it moved forward as if in it's own orbit. As you know, the only reason we are discussing this today, mid-March 2016, is that someone at MDOT erred and forgot to attach a fiscal note. So here it is, awkwardly wrapped in a package of important regional transportation projects unanimously agreed to by BACTS members, with a backdrop threat that if it is not supported by BACTS, all other unrelated projects will be jeopardized. The BACTS framework and decision-making process is by design non-political. It looks at the region's infrastructure needs through the prism of partnership and trust – which is why this injection of politics by MDOT is so distasteful. Brewer's partners in BACTS should not be held hostage or intimidated to support funding a project that is strongly opposed by the municipal member most impacted. Today it's a project that runs through Brewer; tomorrow it could be one going through Bangor or Orono. The ultimatums from MDOT represent a dangerous precedent. My concern is not limited to "process" issues, but extends to the need and viability of the I-395 connector itself. This project has been on the table for over 16 years. Things change in 16 years. One of the original goals of this project was to alleviate and/or divert heavy truck traffic. But look at what has happened on the way to 2016 – Millinocket mill has closed, East Millinocket has closed, Lincoln has closed, Old Town has closed, Brewer has closed, and now the Bucksport mill has closed. The logical after-effects of all of this is a decline in

truck activity. Another change in the last 5 years has been the weight adjustment for trucks on the interstate. Senator Collins championed breakthrough legislation allowing the heaviest trucks on Federal highways, specifically I-95, in November 2011. Interestingly, Federal Highway Administration engineers noted that “The collection of empirical data to measure and quantify pilot program impacts (such as the Collins law) would take 10 to 15 years.” The impact of the mill closures on the need for the I-395 project, therefore, will take time. I believe there is an absolute need to refresh the data to reflect these changes, as no like industries are projected to take the place of the mills. This logically impacts the accuracy of current 2035 projections. It would appear that much of the project is based upon 1998 and 2006 modeling and 2010 appears to be an estimate. That is six years ago at best. 10 years ago at worst.

Let me suggest analogy to illustrate my point. Imagine that 16 years ago MDOT and Millinocket officials determined that the corridor from I-95 to East Millinocket and Millinocket needed to be widened to 4 lanes to accommodate increased truck traffic as well as seasonal tourism activity. Discussions were held, plans and designs submitted, funding allocated, all systems go. Then before groundbreaking occurred, both mills were permanently shuttered. Does the widening project then go forward? Will it be intertwined with other

unrelated development projects in that region which will die if the I-95 – Millinocket widening project is not built? Will it go forward because of some financial penalty that will be owed to the Feds if the project is mothballed? Sounds an awful lot like a bridge to nowhere. So, rather than leave BACTS today with simply a list of complaints, I want to suggest a path forward. MDOT and the City of Brewer are not adversaries; they have a long-standing history of partnership. I ask that the MDOT agree to separate this project from the BACTS project package, and let the other initiatives so important to our region go forward. I request that MDOT thoroughly refresh their data on the I-395 connector to determine if the need is still there. Then, I request that MDOT re-engage the stakeholders and determine a course of action. This is 61 million dollars of taxpayer dollars at play. The need for this connector should be demonstrated with confidence by MDOT. Maine's roads and bridges are in dire need of repair. If this 61 million could be better spent elsewhere, we have a duty to explore that.

Thank you for your time and consideration.

Stephen Bost

“The need for this connector should be demonstrated with confidence by MDOT.”

This is stupid, Maine. You're broke. What are you doing?

STRONG
TOWNS



An interesting take
on the MaineDOT
from a transportation
specialist on the
outside looking in.

The following is an excerpt of original article:

This project in Maine is sadly very typical of what we see around the country; a financially fragile local government trying to represent the needs of people in their community getting run over by a project being pushed from afar. As we seem ready to pour hundreds of billions of dollars into similar endeavors in the coming year, the need to reform this approach becomes more and more urgent.

Last year I gave a [talk in Maine](#) on transportation. The focus of the talk can be neatly summarized as follows: *We have overbuilt our auto-based transportation infrastructure and lack the money to maintain it all.* Thus, the system is going to contract in the coming years. If we want to prosper, we need to start thinking differently about transportation, starting with a realization that places built for automobiles lose money while places built for people generate lasting wealth. Stroads, hierarchical road networks, forgiving design, congestion, complete streets, etc...

The talk is a pretty sharp rebuke to transportation officials who have planned and spent us into this mess. A lot of this is obvious – and I presented it that way – so the people who mindlessly perpetuate the current system come off looking...well....pretty mindless. “*We’ve run out of money, it’s time to start thinking,*” is the quote I use. It’s a powerful conversation.

Which is why I very often have engineers and others involved in that mindless system come up to me afterwards to assure me that they get it, that they are different. I always thank them and urge them to keep pushing for change, remind them that the wind is at their back and, if they lead, the public is ready to follow. We need them.

In Maine, I met with a cadre from their state's transportation department immediately after my talk. They were adamant – **adamant** – that the Strong Towns insights did not apply to them. I was assured – rather dismissively – that they had years ago come to the realization that they couldn't afford the path they were on, that they had made major changes and were now a model for the country. I was even told they were “maintenance only” and, even then, had internal plans to scale back many existing roadways. I was urged to study Maine and share their successes for others to emulate.

SOMETHING HAS GONE TERRIBLY WRONG IN MAINE

I'm not sure if I was lied to by a codependent (the most convincing kind of liar because they've already convinced themselves), if Maine has subsequently fallen off the wagon and gone back to their old ways, or if the elixir of a federal transportation bill last December was just too seductive, but something has gone terribly wrong in Maine. Terribly wrong.

“Despite traffic not meeting projections in recent years (“due to the recession”), engineers are confident it will more than double in the coming years.”

Let's start with this headline: Planners claim state forced them to approve I-395 connector project. From the article: *“Despite traffic not meeting projections in recent years (“due to the recession”), engineers are confident it will more than double in the coming years.”*

Characterizing it as a “distasteful vote” and saying they were “held hostage,” members of the Bangor Area Comprehensive Transportation System's policy committee said they did not like being forced to approve a new three-year plan that includes the Interstate 395-Route 9 connector or risk losing \$57 million in road project funding this year for the Bangor urbanized region, which includes 10 neighboring communities.

Some background on the \$61 million 395-Route 9 connector project before we get into the “distasteful” part. According to the environmental documents, traffic on the stretch is a mere 5,000 vehicles per day (pg 22). Not to fret; despite traffic not meeting projections in recent years (“due to the recession”), engineers are confident it will more than double in the coming years. Thus the need for the project.

There are four specific reasons the project is needed, in the eyes of Maine transportation officials. They are (pg 1 - bold mine):

1. Have a route that meets the standards outlined in the 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;
4. **Improve** the current and future flow of traffic and the shipment of goods to the interstate system.

A SELF-FULFILLING PROPHECY

Incidentally, in a kind of self-fulfilling prophecy, the “need” for the project is determined by the values and assumptions DOT officials begin with. *We must meet the standard and we must improve, Improve, IMPROVE.* These are the exact bureaucratic values we eviscerate in our Transportation in the Next American City chat but, nonetheless, it makes the notion of a no-build analysis rather silly, something DOT officials acknowledge (pg 25):

The No-Build Alternative would not satisfy the study’s purpose and needs or the USACE’s basic purpose as it would not improve regional mobility and system linkage; would not improve safety; and would not reduce traffic congestion. The No-Build Alternative is retained for detailed analysis to allow equal comparison to the build alternatives and to help decision makers understand the ramifications of taking no action. The impacts of the No-Build Alternative were fully developed for design year 2035 to demonstrate the full impact of taking no action. Comparing the build alternatives with the current and future NoBuild Alternative is essential for measuring the true benefits and adverse impacts of the build alternatives considered in detail.

Let me paraphrase: We're going to build this thing because **we must improve**. The feds force us to consider a No-Build option in our analysis, which is rather silly since not building is clearly not under consideration since, by definition, it wouldn't IMPROVE anything and **we must improve**. To deal with this annoyance, we use the No-Build scenario as a way to show everyone how *totally awesome* everything we're going to do is. Feds are happy. We're happy. Public process requirements fulfilled. Yada, yada, yada.....

So progressive and farsighted Maine starts with the premise that we need to meet all the requirements contained in Leviticus....er....AASHTO and that they have a mandate to improve, improve and improve. Let's pause here and consider the environment in which this narrow mindset dwells.

A NARROW MINDSET

This month the Maine Development Foundation and Maine Economic Growth Council released a report called Measures of Growth 2016 that identified Maine's "crumbling transportation infrastructure" as a "red flag". In all categories reported, the condition of Maine's roads began the study period in really bad shape and declined further.

The Maine Department of Transportation's latest three-year work plan shows an annual shortfall of \$168 million just for what is called "basic road and bridge maintenance" meaning each year they fall further and further behind in just the basics. Bridges alone need an additional \$70 million annually if they are to be "safe" which, one would think, should constitute an emergency of sorts.

And while the legislature is pondering additional revenue, the wildest conversations happening at the state capitol don't come near filling this gap:

Based on a return of about \$7 million dollars for every penny of tax assessed, [Representative Andrew] McLean said that 5 cents would generate about \$35 million dollars per year in additional revenue for road and bridge repairs. According to the Tax Foundation, that would place Maine at about 35 cents per gallon in state gas taxes and among the 10 states with the highest gas taxes in the country.

Let me pause and summarize where we are at thus far in this story: Maine – despite assurances I received from top DOT officials there – lacks the money it needs to do basic maintenance on its transportation system. There is no likely scenario that said money will materialize. All this they have clearly acknowledged. Their institutional response to this emergency – and it is an emergency – is to cling to AASHTO’s archaic code book – the gold standard of antiquated dogma – while projecting a value system of improve, Improve, IMPROVE, even going so far as to assume massive traffic increases where there is little traffic today.

“Not only is this unnecessary project going to require destruction of seven homes and impacts to 54 other properties, but when asked to weigh in, local elected bodies have repeatedly opposed it.”

"CHAOTIC BUT SMART" THINKING NEEDED

A central tenant of Strong Towns thinking is a faith in “chaotic but smart” approaches, organic and incremental growth—with all its good and bad—as a way to discover what works, make government more responsive and have investments that meet the real needs of people. I’ve long advocated for inverting our national power structure to give cities more authority and responsibility while reducing the complexity of our centralized systems.

That has been too far for some of you. Some in this audience have expressed concerns that cities would mess this up, that centralized authority is needed to ensure that we’re not held hostage by the parochial concerns of locals, that things of import get done. Others have argued that cities would simply run over the lowly and disadvantaged, that centralized decision making and the established environmental review and public engagement processes are needed to protect the vulnerable and make sure everyone is heard.

BACK TO OUR STORY...

Let me share this quote, which was made immediately following the vote to move forward with the I-395 project:

“Watching this unfold today, in my humble opinion, is precisely why people have lost faith in government,” Brewer City Manager Steve Bost told the panel.

He described Thursday’s process as “an unyielding bureaucracy that is unwilling to listen and unwilling to move” and said state and federal officials have not listened to the communities, including Brewer which has had three unanimous City Council votes opposing the state’s plans.

“I believe that if the Maine public knew what was going on in this room today, that all those projects would be essentially set aside if you do what is in your heart. I think they would be very displeased,” Bost said.

“Not only is this unnecessary project going to require destruction of seven homes and impacts to 54 other properties, but when asked to weigh in, local elected bodies have repeatedly opposed it.”

Seem a little dramatic? It shouldn’t. Not only is this unnecessary project going to require destruction of seven homes and impacts to 54 other properties, but when asked to weigh in, local elected bodies have repeatedly opposed it:

Opponents have held forums that attempted to stop the project. The Brewer City Council voted unanimously in opposition to the roadway. The Holden Town Council also voted against it. Eddington residents have voted against the plan and community leaders have spent years requesting and even suing for information about it.

A narrow 3-2 vote of support from the newly elected council in Eddington is seemingly the only positive expression of local support. Still, we should all rest assured that, regardless of any dissatisfaction with the outcome, the appropriate process for public input has been followed:

Jonathan Nass, deputy director of the Department of Transportation, said the state has taken great care to consider the concerns of residents, pointing out there have been 20 public advisory committee meetings, three public meetings and one public hearing on the project over the years.

“MaineDOT has listened many times to residents that have submitted comments to us and responded to those comments,” Nass wrote in an email, noting the project website includes a 332-page document consisting of meeting records, public comments and state responses.

Yes, little people. Your DOT may have spent themselves into insolvency. They may even be asking for more of your money. You may not share their values and – gosh darnit – you may not even drive as much as they project you should. But at least they’ve listened to you. At least they took the time to respond to your comments. And because you’ve played along, little people, your region will get the additional \$57 million in transportation funding you so desire. Thank you for being so economically fragile and needy.

This is far beyond distasteful. *An unyielding bureaucracy that is unwilling to listen and unwilling to move.* Apparently also unwilling to think.

This is stupid, Maine. You’re broke. What are you doing?



Written by Charles Marohn

[Click here to view original article](#)

Safety Concerns with 2B-2's 4.2 mile segment of Route 9:

- A [Federal Highway report states](#): “In rural areas, each access point added increases the annual accident rate by seven percent.”
- 2B-2's 4.2 mile section of Route 9 includes 35 access points per mile. Any of the 45 alternatives meeting system linkage need would have had zero added access points—not the 148 that Route 9 foists upon 2B-2!!
- With 148 access points—you are 1,036% more likely to have an accident on 2B-2 than 45 other alternatives meeting the system linkage need!
- How does MaineDOT reconcile their words from April 2009? “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.” [Final PAC meeting on 4.15.2009](#)
- “Joan Brooks asked how safety is viewed in comparison to wetlands. Bill said that safety was defined at the beginning of the study as the elimination of crashes. Other aspects of safety certainly exist but were not part of the study's definition. As far the agencies are concerned, [the DOT and FHWA define safety as the elimination of crashes.](#)”
- What you won't find identified in the FEIS are 3 accidents with 4 fatalities on Route 9 (Maine Road) in Eddington between 2012 and 2014; two of those accidents with three fatalities occurred on the exact 4.2 mile segment of Route 9 that is now part of alternative 2B-2. The FEIS crash data is from [Jan2004-Dec2008](#) and now outdated by ten years.
- That 4.2 mile section of Route 9 is an essential part of 2B-2; one may question why the MaineDOT would consider construction of any alternative utilizing Route 9 when the intent of the original—and still valid—system linkage need bypassed that specific section of roadway.

Safety Concerns with 2B-2's 4.2 mile segment of Route 9:

- [What does the Federal Highway 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.”
- [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 [Level of Service] and safety concerns, and the inability of Alternative 2B to satisfy the system linkage purpose and need effectively.”

[Oct2003 Technical Memorandum page 21](#)

- If you traverse the 4.2 mile section of Route 9 from one end to another—you will find a combination of 158 left turns.
- 2B-2 will be commissioned with 148 access points, 10 local roads, 158 left turns and 5 changes in posted speed limits. How does that foster safety—especially when the study's original long-term system linkage need purposely bypassed that section of Route 9?
- 45 other alternatives, satisfying the “east of Route 46” system linkage need and the need for a “limited-access facility”, acquired zero added left turns and zero added access points—unlike 2B-2.

2B-2 did not fit the study—so they simply changed the study to fit 2B-2!



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

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

October 2003

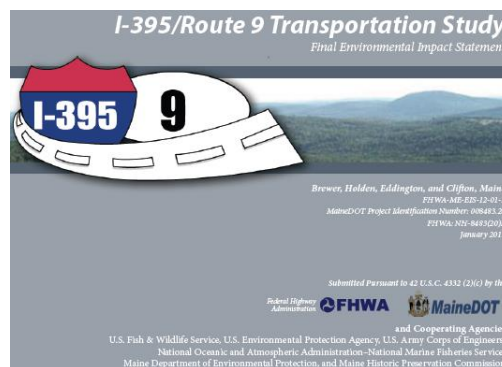


U.S. Department
of Transportation
Federal Highway
Administration



Maine Department
of Transportation

What you won't find is
MaineDOT's plan to
meet the long-term
limited-access system
linkage need in 20
years—triggered by
their questionable
selection of 2B-2.



[Click here to view:](#)

[Click here to view:](#)

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 45 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 45 studied alternatives meeting the system linkage need of a connection east of Route 46 and assume highway speed to I-395.

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.

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 the near-term (Year 20XX) system linkage need.

Access Management: Because of 2B-2's 4.2 mile Rte. 9 section, vehicles will transit past "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.

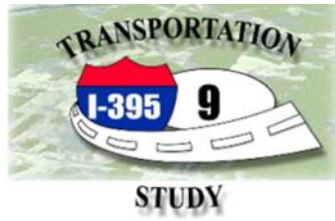
Route 9 connection point: 4.2 miles west of west of the long-term system linkage need as per logical termini redefinition to: "the portion of Route 9 in the study area."

Purpose and Needs: 2B-2 meets 100%

Facility type: Controlled-access.

Long-term Needs: Limited-access retrofit.

System linkage need from February 2002 until September 2010:



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

Transportation Improvement Strategies
and Alternatives Analysis Technical
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October 2003



U.S. Department
of Transportation
Federal Highway
Administration



Maine Department
of Transportation

“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.”

October 2003 Tech Memorandum

- 2B-2 did not meet system linkage need in April 2009. See Matrix on page 4.

Long-term and near-term system linkage need—after September 2010:

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.

“...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...change references...‘partially satisfies’ the need to ‘in the near term’ (or something similar)...”

2B-2 miraculously seems to satisfy the study’s system linkage need essentially because—by golly—doesn’t ‘in the near-term’ sound a whole lot better than ‘partially satisfies’? Parsing just a couple of words sealed the fate of 2B-2!!

- 2B-2 satisfies the near-term—but—not the long-term system linkage need.

What can be taken away from the Sept. 21, 2010 meeting minutes?

- The “Route 9 east of Route 46” system linkage need is still a valid need.
- The limited-access facility requirement is still a valid need.
- Both the original system linkage need and the original need for a limited-access facility were rebranded as long-term needs and deferred by 20 years; creating a future retrofit lacking an engineering plan and a source of funding.
- Alternatives previously identified as ‘partially satisfies’ are rebranded to “in the near-term”. (Isn’t that like changing a course grade from a D to a C?)
- Connecting anywhere on Route 9 within the study area, after September 2010, is enough for 2B-2 to meet the system linkage need “in the near-term.”

2B-2 is a near-term project offering no long-term benefit—only the promise of a costly retrofit in 20 years to bypass the same identical 4.2 mile segment of Route 9 that 2B-2 used to satisfy the near-term system linkage need. How crazy is that?

Confusing the public with near-term and long-term lingo doesn’t hide the fact that 2B-2 is really a 2-phase project with no engineering plans or funding source for the second phase. If it will cost \$79.25 million to construct 6.1 miles of 2B-2 in the near-term, what will it cost to bypass the 4.2 miles of Route 9 in the long-term? Another \$53.3 million could easily be spent and that is at 2018 costs.

2B-2 was advocated by the MaineDOT as the cheapest alternative, yet if you consider near-term costs + long-term costs, 2B-2 could surpass \$132.6 million over the next 20 years to provide the limited-access connection from I-395 in Brewer to the Eddington/Clifton corporate boundary, east of Route 46. I would argue that the DOT could construct any of the 45 out of the 79 alternatives that satisfied the system linkage need and still get change back. It doesn’t make good fiscal sense to build 2B-2 when the state is bonding for road and bridge maintenance and still can’t break even with a -\$59 million shortfall per year. Ask the MaineDOT where they plan to get money for 2B-2’s long-term retrofit?

2B-2 is nothing more than an illusion—2B-2 doesn't satisfy the original purpose and needs—2B-2 is really not the cheapest alternative of the 79 studied if you consider the costs of both the near-term and long-term requirements—and 2B-2 will not provide a limited-access connection to the Eddington/Clifton border until after 2045. In the end—our politicians and DOT officials will get the ribbon-cutting and photo-op they crave—while our existing infrastructure still suffers.

- Failure to comply with long-term needs from the onset is shortsighted, and will transfer another unfunded transportation need to the next generation.

And with the assertion that the limited-access facility requirement need is still valid, what was MaineDOT talking about in July 2001? “Joan Brooks [Eddington Selectman/PAC member] commented that one of the requirements of the study is to create a limited access facility...Ray [MaineDOT I-395/Route 9 Study Project Manager Ray Faucher] 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–July 2001](#) If the intent was to limit access on the new I-395/Route 9 connector, starting with the added 148 access points and 10 roads from 2B-2's Route 9 segment doesn't make sense and may be noncompliant with MaineDOT's own policy, let alone cause—in MaineDOT's own words—“potential for new safety concerns and hazards.”

The MaineDOT has recognized that the Village of East Eddington is an issue—the bypass of that area was intentionally integrated into the system linkage need by design—the DOT changed that need to the long-term and deferred action for 20 years!! Confused? Think of how we feel trying to follow MaineDOT/FHWA logic...

Building 2B-2 in our current economic environment is fiscally irresponsible. This project is so outside of engineering best practices, it is decidedly shortsighted. 2B-2's funding would be better spent on Maine's unmet transportation needs.

Political, personal and business agendas become part of 2B-2's story:



Wednesday, April 27, 2016 Last update: 8:54 p.m.

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Selectman's votes on I-395 project raise questions about conflict of interest

Next 1 of 2



Micky Bedell | BDN

Eddington planner Gretchen Heldmann (left, at podium) speaks out at the Bangor Area Comprehensive Transportation Systems policy committee meeting on March 25. Heldmann opposes the planned connector. *Buy Photo*



By Nok-Noi Ricker, BDN Staff
Posted April 27, 2016, at 8:54 p.m.

EDDINGTON, Maine — A local selectman and state representative who owns a business that could benefit directly if the proposed [I-395-Route 9 connector](#) is built has cast votes pertaining to the project and publicly supported it, raising questions about whether his actions violate local and state conflict-of-interest regulations governing elected officials.

Peter Lyford, who is a state representative for Eddington, Clifton, Holden, Veazie and part of Brewer, [spoke before a legislative committee in opposition to a bill designed to stop the connector project](#) last year, and voted on a resolution and a motion dealing with the controversial roadway during separate Eddington selectmen meetings in 2015, according to a town official.

Lyford, who owns a landscaping business, said Tuesday that he did not notify the Legislature's Transportation Committee that he planned to bid on reseeding the sides of the proposed roadway when he testified against a bill proposed by Rep. [Arthur "Archie" Verow](#), D-Brewer, to stop the controversial roadway's construction.

At a February 2015 selectmen's meeting, the board voted 3-2 to support the state's preferred route—2B2—after years of opposing the controversial MDOT project. Lyford did more than simply vote on the resolution, he made a successful motion to amend it substantially.

The original order opposed the connector, but after a short discussion, "a call for the vote was made and resulted in a motion by Peter Lyford to sign in favor of the 2B2 route, changing the words 'does not support' to 'we do support,'" the town manager said. "Charles Baker Jr., seconded the motion."

Lyford and Mike Shepherd, who both live on Route 46, and Baker supported the new resolve and Chairwoman Joan Brooks and Charles Grover, then vice chairman, voted in opposition.

Six months later, the board again took up the issue, but this time voted to stay neutral.

"We voted on the resolve [in February] but we never signed the resolve," Smith said. "It wasn't until Aug. 4 that we discussed it again, under unfinished business."

During the Aug. 4, 2015, meeting, the board discussed whether to support the rewritten resolve, then voted 4-1, with Lyford dissenting, not to take any action in regard to the connector. That was also the first meeting for new Selectman Mark Carreira, who replaced Grover. [Click here to view BDN article.](#)

- I asked Representative Lyford to recuse himself on 2.17.2015 via email—he refused...

I'm hopeful that a new set of eyes will look at this project and see it as many of us in Brewer and terminate this \$79.25 million boondoggle. Alternative 2B-2 fails to meet Commissioner Bernhardt's August 2011 redline to "limit adding new infrastructure to that which is shown to provide overwhelming benefits."

- 2B-2 is a near-term project with no long-term or "overwhelming" benefit.

The MaineDOT will argue, as they did at the LD 47 working session in February 2015, they would possibly have to pay back the federal share (\$2.2 million) spent to that date. MaineDOT officials could not provide a definitive answer to whether or not those funds had to be paid back; it was just a threat and their prime argument against the bill. We shook our heads as their argument seemed to be that the state needed to spend \$12.2 million (Maine's 20% share of 2B-2's \$61 million cost estimate in 2011) to save \$2.2 million. No one from the DOT argued the merits of their preferred alternative (2B-2) selection. Their argument was laughable, but the financial threat swayed the JSC Transportation to kill LD47, a bill to remove 2B-2 from consideration.

Your new DOT Commissioner choice is critical. The MaineDOT can no longer function in the shadows without accountability to the public they are sworn to serve and protect. Infrastructure should never have become as political as it has over the past 8 years. The MaineDOT will never get buy-ins on questionable and/or controversial projects when they refuse to even discuss the merits of their decisions with local community leaders and impacted citizens.

Oversight of the DOT is within jurisdiction of the JSC on Transportation, yet under Republican Chairmanship, this committee acted more like an arm of the department instead of providing much needed checks and balances. I hope the new legislature takes a more active role in exercising their authority.

Comparison of both preferred alternatives since the year 2000:

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

Alternatives	Description	Meets Purpose		Meets Needs			Practicable	Results
		Study Purpose	USACE Purpose	System Linkage	Safety Concerns	Traffic Congestion		
Alternative 2B-2	<ul style="list-style-type: none"> 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) 	Yes	Yes	In the near-term (Year 2035)	Yes	Yes	Yes	<ul style="list-style-type: none"> Retained for detailed study Wetlands impacts: 34 ac. Stream crossings: 3 (2 with anadromous fish) Floodplain impacts: 15 ac. Notable wildlife habitat: 11.0 Undeveloped habitat: 784 ac. Prime farmland: 20.0 ac. Residential displacements: 8
Alternative 3EIK	<ul style="list-style-type: none"> Satisfies design criteria Length: 10.4 mi. of new alignment Bridge length: 3,948 ft. Earthwork: 4.1 mcy (1.9 mcy cut, 2.2 mcy fill) 	Yes	Yes	Yes	Yes	Yes	Yes	<ul style="list-style-type: none"> Dismissed - other alternatives less environmentally damaging Wetlands impacts: 47 ac. Stream crossings: 7 Floodplain impacts: 7.4 ac. Notable wildlife habitat: 3.2 ac. Undeveloped habitat: 1,312 ac. Prime farmland: 20.5 ac. Residential displacements: 2

[Click here to view DEIS appendix C:](#)

- 3EIK-2 was MaineDOT's first preferred alternative for over seven years.
- 2B-2 became MaineDOT's second preferred alternative by September 2010, parsed words allowed the system linkage need disclaimer: "in the near term".
- 3EIK-2 was dismissed because: "other alternatives [are] less environmentally damaging"—misleading because 2B-2 is 4.3 miles shorter while failing the system linkage need test. Not a reasonable "apple to oranges comparison".
- 2B-2 has 3 stream crossings, 2 streams contain anadromous fish. 3EIK-2 does not impact anadromous fish, so the fish would probably say that 2B-2 was more damaging environmentally than 3EIK-2. Sorry, Mother Nature.
- 2B-2 was chosen because it is the cheapest to construct—however—it is also one of only a handful of alternatives that directly affect anadromous fish; with a history of conservation—why are we invading Atlantic salmon habitat?

2B-2 saves money upfront **only** because 2B-2 requires 39% less pavement—but in 20 years—MaineDOT will be asked for additional funding to retrofit 2B-2 to provide the limited-access east of Route 46 connection that 3EIK-2 provided from the onset. 2B-2 is not a bargain when you add up the near-term and the long-term costs that would probably exceed the cost of the 45 alternatives that met the system linkage need. **WHY**—because 2B-2 will need to be built twice.

It's your money they're squandering —when will you start to complain?

During questioning at his [February 2011 confirmation] hearing, Bernhardt said the administration would oppose raising the gasoline tax as well as any new bonding initiatives. "We have to leave no stone unturned," he said, responding to questioning from Democrats on the Transportation Committee. "We need to be able to tell the people, the department is as efficient and cost-effective as it can be, I believe, before we can go out and ask for more additional funding than we already receive." [Portland Press Herald 2.09.2011](#)

The MaineDOT demands that you pay for the construction of 6.1 miles of new road with Maine's limited transportation dollars and without question. They plan on demanding your grandchildren pay for the bypass of a 4.2 mile section of Route 9 in the future—an issue that they refuse to deal with in the present.

Two projects really exist: 2B-2 in the near term and 2B-2 in the long-term. The first project has been mostly funded for construction and currently in preliminary engineering. What the MaineDOT plans for the second project in 20 years is unknown—but if we can't afford the cost of maintaining our roads and bridges in 2018, why would anyone assume we will be any better-off financially in 2045? If we can't afford to provide funding for both phases of this project upfront, maybe we shouldn't be building this connector at all.

As an analogy, consider buying a home for \$250K that you can only marginally afford. The mortgage company offers you an "affordable" near-term rate with a one-time (long-term) balloon payment of \$123,492 due at the end of 20 years. With full knowledge of the near-term cost and the long-term cost—with no plan on how you will pay off the long-term balloon payment—would you just sign the papers and worry about it later or wisely bail out of the deal?

2B-2 will cost \$79.25 million in the near-term, but in 20 years the long-term need (balloon payment) comes due and could cost an additional \$53.3 million. With the full knowledge of the near-term \$79.25 million cost and the possibility of an unfunded \$53.5 million balloon payment due in the long-term (20 years), would you approve this project and worry about it later? I say, it's time to bail!

It should worry all of us that the MaineDOT is operating—unchecked—spending our money—without a worry about the present or the future.

When I addressed the March 2016 BACTS meeting panel about future funding for long-term needs, MaineDOT officials immediately shutdown the debate. Was it that they didn't know what was previously agreed to—OR—is the real truth that something else has always been going on under the surface?

Was this study a bait and switch, knowingly sacrificing the regional connection from Brewer to Clifton for a bypass of North Brewer—because if so—that is not compliant with the NOI and would be a misappropriation of study funds. Were promises made to the DOT at the time the Wiscasset project was cancelled to proceed with this bypass project—no matter the outcome—settling for a lesser project that doesn't meet purpose and needs—just because the MaineDOT can!!

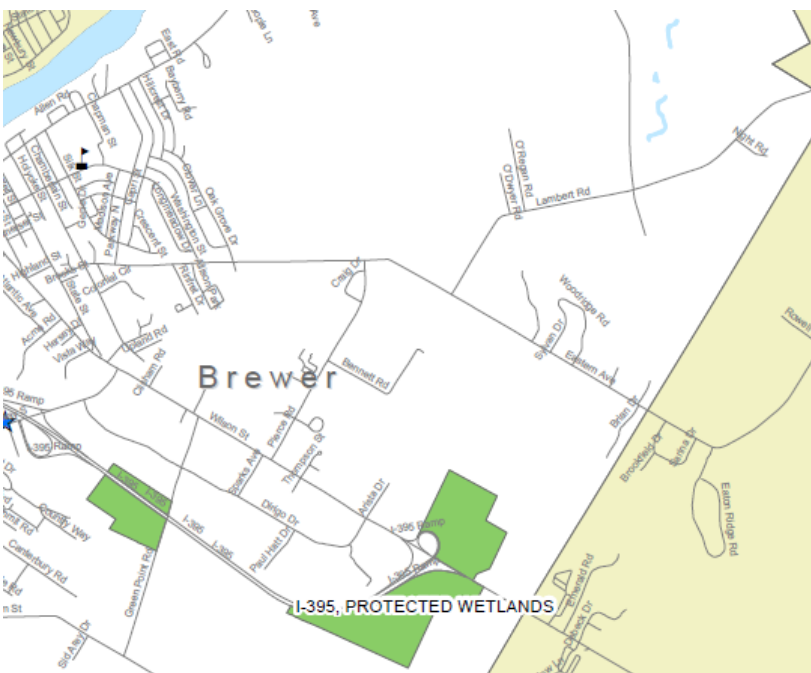
[Maine Revised Statute](#) says it all: Title 23: TRANSPORTATION | Part 1: STATE HIGHWAY LAW | Chapter 3: OFFICIALS AND THEIR DUTIES | Subchapter 1: DEPARTMENT OF TRANSPORTATION §73. Transportation policy: “The people further find that the decisions of state agencies regarding transportation needs and facilities are often made in isolation, without sufficient comprehensive planning and opportunity for meaningful public input and guidance.”

- A sad statement that speaks volumes on dysfunctionality.

An interested map that should have disqualified alternative 2B-2:

I-395 protected wetlands map that couldn't be validated—just because you can't find the paperwork, doesn't mean the map is invalid—how else did this map end up in Augusta? MaineDOT ignored the map, because apparently 2B-2 is more important than “protected wetlands.”

Does this map, and the subsequent denial of the same, seem just a little too coincidental? The very piece of property that the MaineDOT absolutely needs in order to blast 2B-2 through the center of hundreds of acres of prime farmland and over Eaton Brook at several points on the way to passing under Eastern Avenue is labeled as **I-395, Protected Wetlands** in this excerpted 2011 Map obtained from the Maine SPO website as part of Brewer's Comprehensive Plan.



“Alternative 2B was dismissed at PAC Meeting #11 on February 20, 2002 because MDOT and FHWA thought, as a condition of the Record of Decision, or the Section 404 permit, or both, for the existing section of I-395, additional impacts to Felts Brook would not be permitted and therefore this alternative was not ‘practicable’ under the law. At the fourth interagency meeting on March 12, 2002, the agencies stated that the permit for the existing section of I-395 was not conditioned to prevent further impacts to Felts Brook, and that Alternative 2B should be considered practicable under the law and should continue to be evaluated.”

[October 2003 Technical Memorandum page 20](#)

This issue was vetted by the MaineDOT; no restrictions could be found on the property, much of which was purchased by the State of Maine during the construction of I-395. You can't make this stuff up—this wasn't someone's pipedream—it wasn't something Brewer and Eddington impacted residents made up to fight the 2B-2 selection—it was a condition on this particular area that the MaineDOT and the FHWA believed was in existence to the point that they dismissed the original 2B alternative from further consideration in February 2002 because of it. One would have to ask, why not err on the side of caution and keep this area as pristine as possible in case promises were made as part of mitigation but not properly documented. Seems just a little too coincidental to me...

- Launch a three-month review of all state infrastructure based on external reviewers
- After addressing safety, prioritize upgrade projects at the recommendation of a panel of business leaders to ensure the most essential needs for growth are met
- Invest funding in projects that will show a long-term benefit, versus short-term appearances

- Maine's infrastructure can no longer be held hostage by unaccountable civic servants or [legislators with political, personal and business agendas](#) as their priority instead of serving the citizenry. The City of Brewer must be included in the three-month review to make amends for the deliberate lack of interaction imposed upon my community by the last administration.
- FACT: 2B-2 meets the system linkage need ONLY "in the near-term". The 45 alternatives that actually satisfied the system linkage need by connecting to Route 9 east of Route 46 did not require the "near-term" disclaimer as does 2B-2 per the [March 2012 DEIS/Appendix C](#).
- FACT: "Alternative 2B-2/the Preferred Alternative would further the study's purpose and satisfy the system linkage need in the near term (before 2035)." [January 2015 FEIS](#)
- FACT: The MaineDOT—in their own words—identified alternative 2B-2 with this disclaimer: [2B-2] "does not satisfy the long-term system linkage need that is satisfied by other study alternatives." [4.15.09 PAC handout](#).
- FACT: 2B-2 meets the study purpose and needs "in the near-term" only and then only by disclaimer. 2B-2 has no tangible long-term benefit.
- FACT—the study system linkage need is a long-term need (period) and 2B-2 is a near-term (short-term) project (period) providing a photo-op that will cost millions for future retrofits in order to provide those long-term benefits that would have been provided by selecting any of the 45 alternatives that actually met the system linkage need upfront without needing a disclaimer.
- FACT—There is no long-term benefit to the 2B-2 alternative.

Under your direction, the MaineDOT must refocus their efforts and resources solely on Maine's current unmet transportation needs. The MaineDOT needs to stop their avocation for controversial high dollar projects such as the \$79.25 million I-395/Route 9 Connector and the \$120 million Presque Isle Bypass at the same time that:

- Our state cannot afford to even maintain our existing roads and bridges.
- Maine's infrastructure has had an overall "D" rating over the past 8 years.
- 54% of Maine's roads are rated poor to mediocre.
- 14% (a total of 352) of Maine's bridges are rated structurally deficient.
- 15% of Maine's bridges are functionally obsolete, yet no longer tracked.
- Poor conditions cost an average \$638 dollar/year/motorist in car repairs.
- A -\$59 million budget shortfall exists in achieving long-term goals as specified in state law, even when considering previous and future bonding.

What can be accomplished with 2B-2's \$79.25 million? Using available data, 79 deficient bridges that are currently unfunded—could be immediately funded for repair and/or replacement—that's 66% of the bridge projects programmed over the next three years in the [MaineDOT 2018/2019/2020 Work Plan](#).

The \$29 million interest payment (over ten years) on the recent \$100 million transportation bond could fund the repair and/or replacement of 25 bridges. Will we have to bond in the future just to pay the interest on these almost-every-year bonds? We cannot simply bond our way out of our problems—it will take real leadership at the highest levels to prioritize funding of existing infrastructure repairs versus any new project with questionable benefits.

Many were shocked how 2B-2's \$79.25 million construction cost was partially funded until we learned latter, if funded within normal channels, 2B-2 would not have acquired the endorsement of Senator Collins or Senator King. The June 2018 INFRA grant was only \$25 million, yet the customary 80% federal share would have yielded \$63.4 million. Many predict the connector will cost tens of millions more before commissioning and Maine's taxpayers will be stuck with the check, especially if the \$25 million INFRA grant is the sole federal money pumped into this project. Where will the rest of the funding come from when Maine cannot afford to even maintain the roads and bridges we already have? It is fiscally irresponsible to continue funding this highly questionable project with capital that could be better spent on Maine's unmet transportation needs.

The MaineDOT wants a "ribbon-cutting ceremony" so badly that they will spend \$79.25 million on a controversial project, one that lacks long-term benefit, and one that will cost millions to retrofit in the future when the Village of East Eddington needs to be bypassed or extra lanes need to be added to the original build-out. 2B-2 is not the answer—it is a band-aid that provides that "short-term appearance" that you want to and need to address.

An immediate hold on I-395/Route 9 Connector funds needs to be initiated before the start of your proposed three-month review. Not one more dollar should be spent on 2B-2 when our infrastructure is in such dire straits.

My biggest disappointment was not finding that one special person with the pay grade to demand answers from the DOT. A few politicians have tried, but it's easy to get browbeat into retreat when the DOT shows up with engineers and talking points that only a person familiar with the issues can effectively debate. The MaineDOT will not panel a meeting where the MaineDOT cannot control the outcome—that's the key—who ever controls the conversation wins...

A few of the issues and concerns presented for your consideration:

- 2B-2 does not meet the EAST of Route 46 system linkage need—requiring the disclaimer: “in the near-term” to give the faux appearance of meeting that need. 2B-2 is a near-term (aka short-term) project with no long-term benefit.
- To advance 2B-2, design criteria was changed before the end of the NEPA process without reassessing all 79 alternatives with the same new criteria.
- DOT officials have withheld information and have been less than truthful.
- After identifying the negative attributes of a west of Route 46 connection, they did it anyway—in their words—negatively and severely impacting people and increasing the potential for new safety concerns and hazards.
- April 2009 to December 2011—32 months—the study covertly selected 2B-2.
- Brewer City Council was intentionally kept out of decision-making process.
- We were never presented with necessary guidelines to address the DEIS, thus most our questions/concerns were “not substantive” and left unanswered.
- FHWA project manager advised the MaineDOT in December 2011 that 2B-2 no longer met the study’s purpose and needs—only to be silenced by FHWA.
- The FHWA parsed NOI language to alter the logical termini criteria and the MaineDOT parsed the system linkage need to promote the selection of 2B-2. Both vow they made no changes during NEPA process—that’s simply untrue!
- Meetings took place with influential citizens outside of the PAC process. PAC members felt the process was broken and decisions were predetermined.
- The NEPA process was side-stepped and Maine laws may have been broken.
- DOT’s prior declarations that should outright disqualify 2B-2 and assertions from private citizens that conflict with MaineDOT’s current agenda were disregarded—placed [in the back of a book that no one will read](#)—unanswered.
- The question of conflict of interest became a real part of the story.

Closing Remarks

The facts are not debatable; 2B-2 fails to meet MaineDOT's own goals to provide a limited-access connection between I-395 in Brewer and Route 9 at the Eddington/Clifton corporate border—east of Route 46. Examining some 1500 FOAA documents while digesting MaineDOT's (now-defunct) study website, I have authored thousands of emails and documents in opposition to this project; these can be viewed on my website: [“I-395/Route 9 Hard Look”](#). Should Mainer's allow their DOT to spend our limited transportation funds on controversial projects that fail to meet specific purpose and needs with dubious outcomes? Should Mainer's allow civil servants to steamroll them in a process where their input will be subsequently ignored and marginalized? Where's the accountability to the public that these civil servants take an oath to serve?

The LePage administration cancelled two transportation projects in their first six months. “We are struggling to maintain the roads and bridges we currently have in safe and serviceable condition...Adding more miles to our transportation system in this current fiscal environment doesn't make financial sense...With current funding levels stable at best, MaineDOT concluded that the expenditure of funds on new infrastructure was not justifiable.” [Commissioner Bernhardt](#)

Precedence was set in August 2011 and we still suffer from the same fiscal woes. I respectfully request your new administration take a “hard-look” at this project within your proposed three-month review and terminate the build-out of 2B-2 in favor of focusing all resources to Maine's unmet transportation needs.

Citing Governor-elect Mills' pledge to “Invest funding in projects that will show a long-term benefit, versus short-term appearances”, I rest my case.

—Larry Adams—