

## A few thoughts...

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To: Brewer City Council; Brewer City Manager; Councilor Ferris; Councilor Uhlenhake; Councilor Vachon; Deputy Mayor Goss; Mayor O'Connell; Eddington Board of Selectman and Town Manager; Carol Woodcock / U.S. Senator Susan Collins; Elizabeth Montgomery Schneider MacTaggart / U.S. Senator Angus King; Representative David Johnson - District#20; Rosemary Winslow / U.S. Congressman Mike Michaud; Senator Edward Youngblood - District#31;

Cc: Personal email addresses redacted.

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## A few thoughts about the upcoming Legislative Council Appeal Hearing:

- Some may say—the MDOT already gave you a chance to ask questions by hosting two Open Houses.
- Some may say—the MDOT already gave you a chance to express concerns at the May 2012 Public Hearing.
- Some may say—the MDOT already gave you a chance to submit questions and comments to the DEIS.

### **Those statements are accurate, however:**

The **Open Houses** were off-the-record without any accountability by the many state and federal government officials in attendance. By the time of the Open House, I had already developed trust issues with the MDOT/FHWA and at first intended only to sit in the background and observe. I was basically told that afternoon, by the ACOE representative, that the DEIS was just a draft as if that was supposed to make me feel better. Cautiously selecting my questions, I received blank stares from some officials, no real answers from others and an excuse from the new MDOT Project Manager that he had only been on the project for a few months. Many applauded MDOT's efforts in their attempt to make up for keeping us in the dark for the previous three years, however the Open House should have been more of a question and answer session to get all the issues on the table and on-the-record. An issue this important and life-changing should have accountability throughout all steps of the process.

The **Public Hearing**, although on-the-record, was a one-way conversation. The MDOT made it clear, at the start of the hearing, that they would not answer any questions that night. I was flabbergasted—these government agencies know that the public is ignorant to how this process works and I went there prepared to debate—not to talk to empty chairs. Nineteen of us rose that night to address the panel—not one person spoke in support of MDOT/FHWA's 2B-2/preferred alternative. Out of 84 pages of transcript—only 14 comments were later considered substantive.

The MDOT did not answer the majority of my **DEIS Questions/Concerns**, as they decided what was and what was not substantive; what they would answer and what they would not answer and managed to keep most of my best questions buried—unanswered in the back of the book. I have the distinction of being named in several FOAA documents. FOAA DOC#000251: "For Mr. Adams submissions that did not provide substantive comments according to the regulation, we suggest not deleting them as suggested but bunch them together and number them as Mr. Adams had done (e.g., Larry Adams no. 1-14). This way the submissions are acknowledged as received and reviewed and we avoid drawing unnecessary attention to them." Doesn't that have a certain whiff of something deceitful and underhanded? I still contend that the MDOT used too strict of a definition of "substantive" allowing them to more easily control the conversation. I submitted 68 pages of questions and comments to the DEIS, only 27 comments were considered substantive even though they were made up mostly of information directly gleaned from the MDOT's own website. Even MDOT's April 2009 Purpose

and Needs Matrix did not make the substantive cut and that is the single most important document in this study. My questions and comments can be viewed on pages 103 to 171 in the Draft Responses to Substantive Comments: [http://www.i395-rt9-study.com/Pubs/Draft\\_Comments.pdf](http://www.i395-rt9-study.com/Pubs/Draft_Comments.pdf). View page 106—I questioned the 2B-2 cost disparity between the \$70 million the BDN reported on January 10, 2012, the \$90 million stated in October 2011 MDOT Interagency Meeting Minutes and the DEIS-stated \$61 million. Nothing on page 106 was considered substantive.

**FOAA Documents** exposed conflicting information in the DEIS: the design criteria of 2B-2 stated in the DEIS does not match the 2B-2 cost as stated in the DEIS. FOAA Documents revealed that the MDOT planned to downgrade the design standard from the DEIS-stated freeway criteria to rolling criteria following the conclusion of the NEPA process and the cost of the cheaper rolling criteria was already reflected in the DEIS. FOAA Doc#000391 from Gannett Fleming (WP) to the MDOT Project Manager (JL) stated: “This cost estimate for the build alternatives was prepared using the freeway criteria. We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria...we ask that the DOT let us know the anticipated percent reduction in cost that would result from this change in criteria...we will apply this percent reduction to the cost to construct the build alternatives that is shown in the DEIS/Section 404 Permit Application.” FOAA Doc#000392 (attachment to FOAA Doc#000391) stated that alternative 2B-2 cost \$93,240,000. (Gannett Fleming Inc. is MDOT’s Engineering Consultant and (WP) has been involved in this Study since the onset.)

**We’ve been misled** by doctored facts within an official government document that misrepresents 2B-2 as a more reasonably priced alternative than it is. 2B-2, described in the DEIS as “conceptually designed using the MaineDOT design criteria for freeways”, costs \$93.24 million—not \$32.24 million less—not \$61 million as stated in the DEIS. Call it fraudulent or call it deceitful, call it what you will, but the DEIS-stated \$61 million cost is an untrue statement in a document that the MDOT Project Manager (RC) proclaimed in a MDOT Project Status Report on April 19, 2013: “It is important to note that the Draft Environmental Impact Statement (DEIS) contains the information pertaining to the project and is the current document of record.” I addressed the cost disparity before the FOAA release; the FOAA proved that the lowered cost was intentionally included in the DEIS. Obviously, the MDOT/FHWA couldn’t admit the DEIS-cost and the DEIS-design didn’t match; a design change during the NEPA process would’ve been hard to explain. Did this intentional misrepresentation of alternative 2B-2’s cost unfairly manipulate the outcome of this Study by influencing critical project decisions from Cooperating Agencies?

### **Do we deserve a do-over?**

**You bet we do**—but this time, the MDOT and the FHWA need to answer our questions-on-the-record. We have been trying to have this debate since I discovered MDOT’s little-connector-secret on December 15th of 2011. If the MDOT and the FHWA are so confident of their selection for this project—why do they attempt to marginalize efforts to find the truth, every-step-of-the-way? The fact that the MDOT will not enter into a conversation with the citizens and officials of the impacted communities should speak volumes—what are they worried about?

I would also offer that the MDOT may not be in compliance with Maine Statute: Title 23 | §73.3 Transportation policy. <http://www.mainelegislature.org/legis/statutes/23/title23sec73.html> “The department and the Maine Turnpike Authority shall take the comments and concerns of local citizens into account and must be responsive to them.”

When the MDOT intentionally withholds all information of any kind, including project decisions and project progress from the impacted communities from April 2009 until January of 2011—a complete information blackout; when a MDOT Project Manager intentionally withholds critical project information after I requested a project update in March of 2011; when a MDOT Manager and a FHWA Manager refuse to communicate with me anymore via email in December of 2012; when even the MDOT Commissioner does not reply to my formal written correspondence personally addressed to him in May of 2012; when the majority of my comments and questions to the DEIS are buried—unanswered—in the back of the book—to avoid drawing unnecessary attention to them; when the MDOT refuses to engage the duly-elected governing officials of the impacted communities in the public process and the decision-making process; and when the MDOT Commissioner refuses to voluntarily enter into what many feel is much-needed and long-overdue dialog with residents, municipal officers and property owners concerned about the future of the project and its effect on their properties (the basis behind LR-2435 by State Representative Verow)—how are those actions by the MDOT in any way responsive to me and to the impacted communities and is that non-responsiveness in compliance with State Statute?

Since no one involved in the DEIS has apparently found any problem with the doctored-cost of their preferred alternative, one would have to ask what else may have been misrepresented in the DEIS? Months ago I attempted to raise the issue of NEPA compliance; I contacted the Office of the Federal Executive (White House), the New England EPA and FHWA Headquarters in Washington D.C. Even at the highest of levels, none of my questions were answered and still to this day, I remain at a loss why no one will step up to make these agencies accountable for their actions. The N.E. EPA advised that as a Cooperating Agency, they were not responsible for NEPA compliance. FHWA Headquarters—after not answering any of my questions—suggested I contact the local FHWA Manager via email if I had additional questions—of course that just so happened to be the same FHWA Manager that refused to communicate with me anymore via email in December of 2012.

As a Veteran and a retired Federal employee, it is hard for me to understand how a government founded by the people is not accountable to the people. I am tired of being ignored, marginalized and otherwise lied to.

**Yes—we deserve to have this conversation**—and we shouldn't have to file legislation to have it. But I would suggest a step further, in all fairness to all the impacted communities, this study needs to be scrapped, and if the MDOT and the local communities deem this project necessary, begin a new Study—in full transparency—within NEPA compliance—with full engagement of the impacted community and their leaders to solve this problem (if there is indeed one) and actually select an alternative that meets the Purpose and Needs.

Thanks for your support, your time and consideration of my views, Larry Adams