

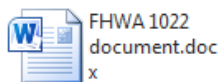
My wounds have healed...

Larry Adams

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To: Brewer City Council; Brewer City Manager; Councilor Beverly Uhlenhake; Councilor Joseph Ferris; Councilor Kevin O'Connell; Deputy Mayor Matthew Vachon; Mayor Jerry W. Goss; Eddington Board of Selectman and Town Manager; Carol Woodcock / U.S. Senator Susan Collins; Elizabeth Montgomery Schneider MacTaggart / U.S. Senator Angus King; Representative Arthur Verow - District #21; Representative David Johnson - District#20; Rosemary Winslow / U.S. Congressman Mike Michaud; Senator Edward Youngblood - District#31;

Cc: personal email addresses redacted.



Good afternoon to all:

I've had a week to lick my wounds after providing what I believed to be irrefutable evidence of false statements and claims intentionally incorporated into the I-395/Route 9 Transportation Study Draft Environmental Impact Statement (DEIS) and receiving this reply from the U.S.D.O.T. Office of Inspector General (OIG): *"Due To The High Volume Of Complaints We Receive Through Our Hotline System, We Are Unable To Provide Full Investigative Attention To Every Complaint That Is Within The Oig'S Purview. We Exercise Independent Judgment In Determining The Best Use Of Available Resources To Meet Our Responsibilities Under The Inspector General Act. We Have Carefully Reviewed The Material You Provided, Have Elected Not To Pursue An Investigation And Our File Is Now Closed."* The OIG was the proper avenue to investigate an 80% federal-aid \$2.5 million transportation study leading to an 80% federal-aid construction project. What I received had the appearance of an automated response with an address (netclaims@tnwinc.com) not in the normal .gov domain format (hotline@oig.dot.gov) leading me to believe that a third party contractor may have been designated to "review" my submission.

I have just discovered another reference to fraudulent statements, claims and representation: [Form FHWA-1022](#). Wouldn't the statements included in this form—required to be posted at construction sites of all Federal and Federal-aid highway projects—be just as pertinent with pre-construction activities such as the DEIS? Note that the FHWA recommends reporting statute violations to the OIG hotline—we know how that just worked out. There are two additional points of contact suggested: State Highway Department and/or Federal Highway Division Administrator. I advised the FHWA (Washington D.C. Headquarters) NEPA compliance point-of-contact of these issues last year to no avail and both the MaineDOT and local FHWA project managers refused to communicate with me anymore via email in December of 2012.

Why was the fraudulent \$61 million cost intentionally included in the DEIS and not the factual \$93.24 million cost of the DEIS-stated *"Alternative 2B-2...designed using the MaineDOT design criteria for freeways"*? The obvious reason for including the cheaper cost of a future downgrade in design criteria—*"following the conclusion of the NEPA process"*—would be to intentionally misrepresent alternative 2B-2 (by \$32.24 million) as a cheaper, more reasonably priced solution to the I-395/Route 9 Transportation Study while skirting possible non-compliance with the National Environmental Policy Act (NEPA) by not having to admit to downgrading the design criteria and reducing the ROW of the preferred alternative only.

But—weren't all 79+ alternatives supposed to be studied and evaluated using the same criteria? FHWA (MK) believed that was not the case in Dec 2011, a mere three months before the DEIS was issued:

- *“Mark is concerned the criteria change to a 2-lane/2-lane ROW of the Preferred Alternative will alter the impacts and prior alternatives analyses is not comparable (apples to apples) as those done with 4-lanes/4-lane ROW.”*(MaineDOT (JL) FOAA Doc #000131)
- *“Mark’s comment the 2-lane-2-lane ROW Preferred Alternative does not satisfy the Purpose and Need...”* (MaineDOT (JL) FOAA Doc #000177)
- *“Mark has stated as the alternative will move forward as a 2-lane/2-lane the analysis is now apples to oranges comparison.”*(MaineDOT (JL) FOAA Doc #000177)

Mark Hasselmann is not some bit player staged in the background—MK is the FHWA Maine Division Right of Way and Environment Program Manager. His comments and concerns were apparently overruled by his superiors as here we still are today. We only have Judy Lindsey’s side of the story through MaineDOT FOAA documents, specific FHWA documents were not pursued at that time.

I have previously demonstrated that the Benefit/Cost Ratio would be unviable ($B/C < 1.0$ using August 2012 MaineDOT benefits data stated in FOAA Doc #000187) with the \$93.24 million price tag of a freeway criteria designed 2B-2. The only way to “sell” this connector is to once again downgrade the design criteria of 2B-2 (and not the other 79+ alternatives) to drive the cost down to that magical and yet to be substantiated DEIS-stated \$61 million cost. And that is why both the design criteria and the ROW have already been or soon will be downgraded from freeway criteria to rolling criteria with a reduction in ROW from 200 feet to 100 feet. Money became the sole driving force of this project several years ago and that is all that matters—not satisfying the original Study Purpose and Needs or even addressing known Safety concerns and hazards from October 2003 concerning that same 4.5 mile section of Route 9: *“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.”*

The only logical reason for not including the downgraded rolling design criteria in the DEIS to match the cost of a rolling design already included in the DEIS is the MaineDOT/FHWA fear of non-compliance with NEPA. There can be no other conclusion to why the cost and the design do not match. How many more FOAA Documents—that just so happen to predate the DEIS—does one need to view before reaching that conclusion? How many more conversations, emails and articles in the BDN does one need to view before concluding that there is not only a cost and design conflict in the DEIS—there is also an apparent conflict in the end-design criteria and the right-of-way and all of this information has been intentionally withheld from the public and not included in the DEIS. What other surprises do they have in store for us?

There are many state and federal government agencies required to provide their professional expertise by commenting on this project; how many of these professionals, unaware of the DEIS-stated design criteria and the DEIS-stated cost conflict and the future downgraded changes in the end design criteria and ROW, have had their thought process tainted by this intentional fraudulent \$61 million cost lower cost? It is not hard to imagine someone thinking—sure it’s not what we wanted for the first ten years of the study, but the price seems reasonable. That intentional-fraudulent-cost-talking-point has been out there in the public since the DEIS was published in March 2012.

The MaineDOT/FHWA cannot be allowed to just make this stuff up in order to promote their selection of such an unviable alternative. Don't let them use the excuse that the DEIS was just a draft document as their actions were not accidental—they were intentional. The MaineDOT/FHWA had their chance to address the \$61 million cost in the DEIS—BUT—they determined that my DEIS question specifically on that \$61 million cost was not considered substantive. The fact that they hid that question in the back of the book—unanswered speaks volumes for how this process has been managed or better yet—manipulated. Ask yourself how you would feel finding your name in MaineDOT meeting minutes (several times): *“For Mr. Adams submissions that did not provide substantive comments according to 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.”* (FOAA Document #00251)

And please—do not forget that at the same time the MaineDOT was apologizing in January 2012 for keeping us in the dark and making promises to keep us advised in the future, the MaineDOT was already withholding the downgraded design criteria, the reduction in the right-of-way and the cost disparity in the DEIS gleaned from FOAA Documents that we would not receive until the following year. *“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.”* Not only did the MaineDOT withhold information (once again) from the public and their elected officials—none of that critical change in study design criteria and ROW was forwarded in official Questions/Answers to the Office of Senator Collins on 1/17/2012.

We can make believe that our State and Federal government agencies can do no wrong, that the DEIS is 100% honest and accurate and that the 1,239 FOAA Documents are totally meaningless as the MaineDOT Project Manager (RC) tried to insinuate in an April 19, 2013 email: *“individual documents may not be the current correct information and represents a snapshot in that point of time”* OR stand up and make the MaineDOT/FHWA answer our questions. If the MaineDOT and the FHWA are both sure of their actions and their selection of 2B-2 as the preferred alternative—they should be more than happy to talk to us at any time and they should be more than happy for the scrutiny of an investigation.

In that same April 19th email, Mr. Charette also stated: *“To be clear, the proposed Right of Way for the project corridor is 200 feet (minimum). The design standard used for the evaluation of the 79+ alternatives considered in the process is the “Freeway” design standard as documented in the DEIS and continues to be the standard for environmental processing.”* AND *“...DEIS contains the information pertaining to the project is the document of record.”* YET—just two days earlier he was quoted in the BDN: *“MDOT project manager Russell Charette responded Wednesday to Heldmann’s conclusions by saying the state agency’s federal partners asked for a change in the design criteria, that the change would reduce costs, and that all public comments are part of the final report he is finishing.”*

- *“We understand the DOT would like, following the conclusion of the NEPA process, for the preferred alternative to be developed using rolling criteria.”* (FOAA Doc #000391)
- *“After reviewing the cost estimates...the cost estimates should be reduced by one-third... basis for this one-third reduction includes...using a rolling design...”* (FOAA Doc # 000431)

- *“Between the DEIS and the FEIS...by reducing the design criteria from freeway/interstate standards to rolling rural standards...”* (FOAA Doc # 000177/000178)
- *“It’s true, Ken decided the reduced lane and 100’ to 125’ ROW width was all we needed in the foreseeable future so why buy more.”* (FOAA Doc # 001143)

We were given the opportunity to express our questions and concerns at an open house, the Public Hearing and in written form to the DEIS in 2012—many of us did just that. What information was given to us to form our opinions, questions and comments? We had only what the MaineDOT/FHWA wanted us to have and none of the information that they chose to withhold until forced to release it by the Town of Eddington’s FOAA request. We all laughed at that strange new word “substantive” that would eventually allow the MaineDOT/FHWA to manipulate our questions and concerns—to put them in the back of the book—unanswered. Withholding information, lies by omission and dissimulation—that’s not exactly the intent of [§73. Transportation policy](#).

How about those Purpose and Needs? MaineDOT/FHWA Transportation Professionals found that in April 2009 alternative 2B-2 only met 1 (20%) of the 5 Purpose and Needs. In December of 2011, FHWA/Hasselmann advised the MaineDOT that the preferred alternative (2B-2) did not meet the Purpose and Needs only to be overruled by his superiors. On the same day and only three months before the DEIS would be issued, the MaineDOT Project Manager made this prophetic statement at the [December 2011 Interagency Meeting](#): *“Judy Lindsey: Yes. It satisfies Purpose and Need—not what we’ve been talking about, but it will still do a lot for transportation network causing the problem all along, especially on Route 46.”*

Shouldn’t the Purpose and Needs, especially the System Linkage Need and the need for a limited access facility as [clearly identified on page 5 of the October 2003 Technical Memorandum](#) by many of the same Transportation Professionals still involved in this Study, be 100% satisfied at the onset of a project and not projected to some unknown future time ([MaineDOT defined near-term in the DEIS on page 258 as the year 2035](#)) under the guise of a long-term need? What kind of engineering plan is that—how much will this connector really cost in the end if a second project is needed 20+ years later to get to the point of fully satisfying the Purpose and Needs that should have been satisfied from the onset? I’m sorry, but if you can’t anticipate the possibility of icing on the Penobscot Narrow Bridge after living through the Ice Storm of 98—I don’t believe you should be able to punt the Purpose and Needs of this project into the unknown.

I heard an interesting phrase today while watching the problems in New Jersey: *“False in one—false in all”*. I googled that and found that it is based on a charge that a Judge may issue a Jury in a criminal case: *“If you believe that any witness or party willfully or knowingly testified falsely to any material facts in the case, with intent to deceive you, you may give such weight to his or her testimony as you may deem it is entitled. You may believe some of it, or you may, in your discretion, disregard all of it.”* SO—excuse me for being a little reluctant to believe anything the MaineDOT/FHWA may communicate—there have been too many “irregularities” over the past few years.

Have you noticed that no one talks anymore about our failed infrastructure since the Transportation Bond was passed last year? The public has been lulled into thinking that the Bond will fix everything but in the end once the MaineDOT takes out what they want for their “pet” projects, such as the Presque Isle Bypass for one and hopefully not the I-395/Route 9 Connector—very little will get fixed that hasn’t already been budgeted for: *“However, MaineDOT says even with the bond, the agency’s core highway and bridge programs still face a funding shortfall of about \$110 million a year.”* Will the Bond also fund the final \$12.5 million needed for the

Sarah Mildred Long Bridge and how about possible funding now needed to ice-proof the Penobscot Narrows Bridge?

Wouldn't the DEIS-stated \$61 million construction be better spent on the unmet transportation needs of the state of Maine? That \$61 million represents 55.5% of one year of the yearly \$110 million shortfall as reported by the MaineDOT. Wouldn't we be better off fixing a couple of roads and bridges instead of building an unviable alternative that doesn't even meet the Purpose and Needs? When is the MaineDOT going to be forced to work within ~~their~~ our budget instead of what appears to be business as usual?

Where do we stand today? The MaineDOT/FHWA continues to run out the clock—the silence is to their benefit unless someone will stand up and make them accountable for their actions. Once again—I find myself dismissed and marginalized—and once again—I ask for your help.

Since Attorney General Janet Mills is the chief law enforcement officer for the State of Maine and chief advisor on Freedom of Access issues—would that be an avenue to pursue? Please advise...

And as I finish this email, [DHHS is reporting another 100 million shortfall](#). I know where they can find \$61 million if that would help!!

Thank you for your time and consideration of my views, Larry Adams



U.S. Department
of Transportation
Federal Highway
Administration

NOTICE

The highway construction underway at this location is a Federal or Federal-aid project and is subject to applicable State and Federal laws, including Title 18, United States Code, Section 1020, which reads as follows:

“Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or the cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined under this title or imprisoned not more than five years, or both.”

Any person having reason to believe this statute is being violated should report the same to the agency representative(s) named below.

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State Highway Department

Enter name and address of State Highway Department.

(Both Federal and Federal-aid projects)
Federal Highway Division Administrator

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(Both Federal and Federal-aid projects)
Department of Transportation
Office of Inspector General
Toll Free Hotline
1-800-424-9071