

Testimony to the JSC on Transportation in Support of LD 783

LD 783: “Resolve, To Require an Independent Analysis of the Department of Transportation’s I-395/Route 9 Connector Project.”

March 14, 2019 - Public Hearing

Larry Adams/Brewer, Maine

To the Honorable Senator Diamond and Representative McLean and the distinguished members of the 129th JSC on Transportation:

My name is Larry Adams and I am a Brewer resident. Thank you for this opportunity to voice my continued opposition to the selection of 2B-2 as the preferred alternative for this project and my support of LD 783, “Resolve, To Require an Independent Analysis of the Department of Transportation’s I-395/Route 9 Connector Project.”

I stood in front of this committee in February 2015 and gave [Testimony in support of LD 47](#), a failed attempt to legislatively remove 2B-2 from consideration. My issues have not changed, my opposition to this project has not waned, my words are the same words that went unheeded in 2015 and after providing these facts to every level of government, **I am no longer naïve enough to believe that these facts will ever get an unbiased consideration.** No one wants to believe that our government agencies can do anything wrong. As I told the Governor, **we are raised to blindly believe our government but sometimes the government just gets it wrong and this is one of those times.** This is the wrong project to squander our limited transportation funds on...

DOT’s favorite go-to talking point is: “2B-2 is the cheapest and least environmentally damaging alternative.”

What a specious statement; 2B-2 is only one-half of the connector the study group was tasked to deliver almost 20 years ago.

2B-2 fails to satisfy the study’s original decade-long system linkage need of a connection on Route 9 to the east of Route 46!!

My website: <https://i395rt9hardlook.com/> was established upon thousands of pages of FOAA documents and material from MaineDOT’s own study website. I stand by what I present as 100% factual. The website’s purpose is educational to keep impacted communities advised of activities within this project.

I provided the following to Governor Mills and her transition team: [Brewer Boondoggle](#), [History was dismissed...](#) and [We have no money...](#) These documents are best viewed online as they are hyperlinked to references. A written copy will gladly be provided upon request. **I would urge you to contact the City of Brewer if you doubt the veracity of the following:**

Work Plan

Calendar Years 2019-2020-2021

[Click here to view pages i and xi.](#)

Transportation Needs and Goals - MaineDOT works hard to achieve the best system results it can with the funding provided. Through the use of asset management principles, this Work Plan, like prior recent plans, seeks to maintain the current system of assets first, while acknowledging that **we are losing ground to the capital goals established in 23 MRSA §73(7)**. In the near term, the needs of the transportation system in Maine, as in all other states, continue to outpace available federal and state resources. Maine's large land area, relatively low population and high number of state-jurisdiction highway miles all contribute to the extent of this challenge for Maine. Looking forward, it is time to work with the policy makers, transportation agency partners, and industry to take a fresh look at priorities and service levels and establish updated transportation policy goals. These goals might include raising the bar to improve the system, not just treading water; maintaining Maine's brand of safe and easy travel, which will help recruitment of new workers; minimizing the financial burden on Mainers; reducing transportation's impact on climate; and increasing predictable, sustainable funding sources, which would allow a gradual reduction in the dependence on bonding over time. This goal-setting effort will benefit from MaineDOT's completion of Maine's Long-Range Transportation Plan 2050 (LRTP), which is scheduled for 2019. The LRTP will consider macro level trends that have both short- and long-term implications for transportation including global trade, tourism, population migration, climate change impacts, and Maine's aging population. In any event, **there is clearly a substantial unmet need**. Depending upon policy goals to be established, it is anticipated that the amount of this need is **in excess of \$125 million per year**.

How can the state afford to squander \$79.25 million on such a controversial project as the I-395/Route 9 Connector (2B-2) when the MaineDOT acknowledged in February 2019, even with the current \$100 million bond and proposed bonding over the next six years, **“we are losing ground to capital goals...there is clearly a substantial unmet need...in excess of \$125 million per year.”**

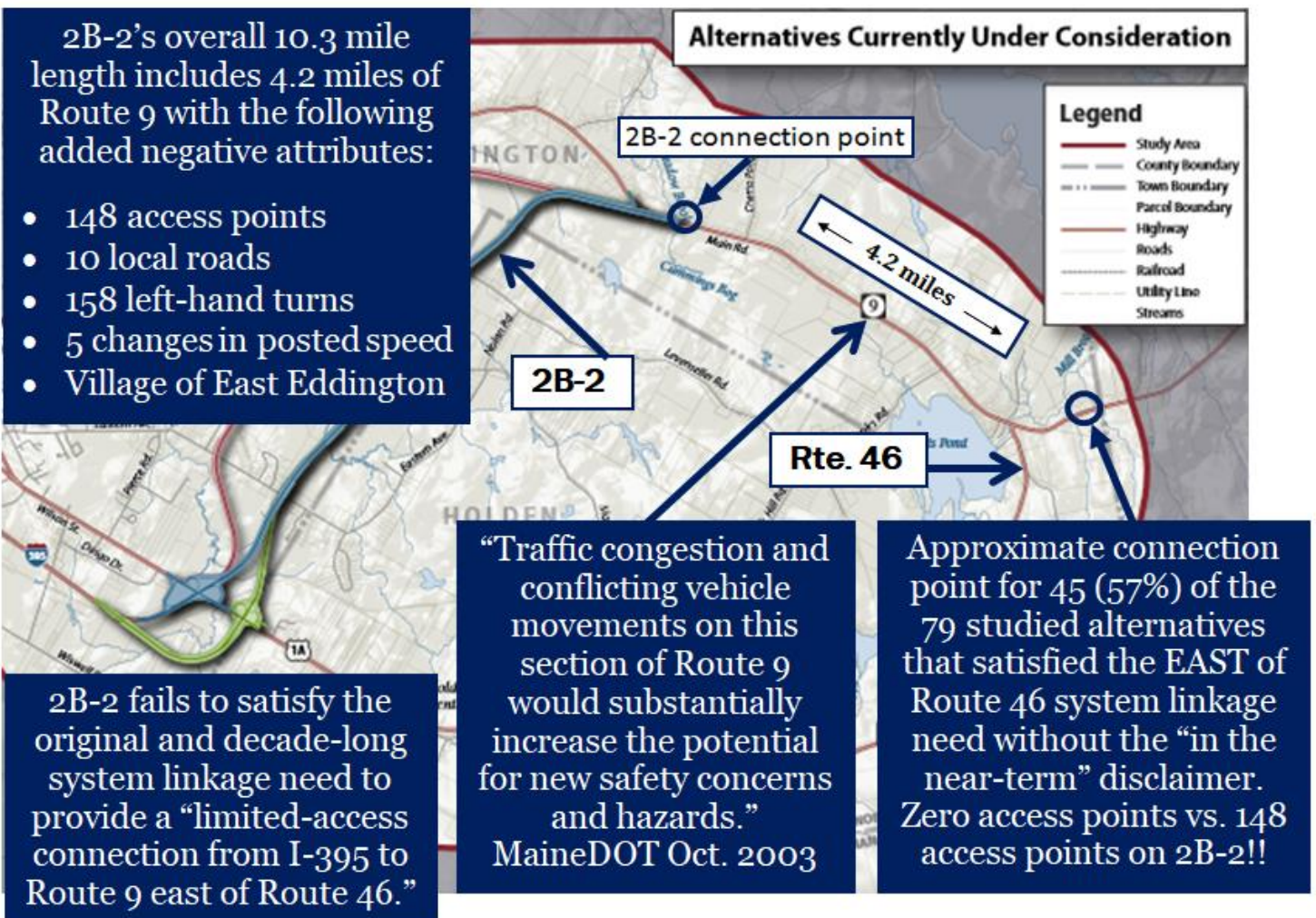
State Funding - State revenue forecasts guide the Work Plan's assumptions about what revenues will be available from the State Highway Fund. Major state resource assumptions in this Work Plan also include both voter-approved bonding and anticipated future state bonding, which continue to be a critical component of state funds. Maine is currently in the fourth year of a 10- year bonding plan. In November 2018, Maine voters approved a \$100 million General Obligation (G.O.) bond to fund the state transportation program in 2019; \$80 million of which is dedicated to Highway and Bridge projects, and the other \$20 million is dedicated to Multimodal projects. Based on voter approval of transportation bond referenda in recent years, this Work Plan also assumes Governor, Legislative and voter approval for \$100 million in G.O. bonding in CY 2020 and \$100 million again in CY 2021. (pg. i)

2B-2 would become the \$79.25 million preferred alternative even though 2B-2 met only 1 of 5 (20%) purpose and needs in April 2009 per the MaineDOT Purpose and Needs [Matrix](#), part of the April 2009 PAC meeting handout. The April 2009 PAC meeting would become the final PAC meeting of the study; the 2B-2 selection was done covertly [without the knowledge of the impacted communities](#), a 32 month-long period of silence.

I-395/Route 9 Transportation Study PAC Meeting April 15, 2009					
Purpose and Needs Matrix					
Alternatives	Meets Purpose		Meets Needs		
	Study Purpose	USACE Purpose	System Linkage	Safety Concerns	Traffic Congestion
No-Build	No	No	No	No	No
Alternative 1-Upgrade	No	No	No	No	No
→ 2B-2	No	No	No	Yes	No ←
3A-3EIK-1	Yes	Yes	Yes	Yes	Yes
3EIK-2	Yes	Yes	Yes	Yes	Yes
5A2E3K	Yes	Yes	Yes	Yes	Yes
5A2E3K-1	No	No	No	Yes	No
5A2E3K-2	Yes	Yes	Yes	Yes	Yes
5B2E3K-1	Yes	Yes	Yes	Yes	Yes

www.i395-rt9-study.com

Map from MaineDOT study website circa January 2012:



January 2015 FEIS official 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 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.**”

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

October 2003 study guidelines per DOT/FHWA Tech Memorandum (page i/5):

“Alternatives were developed, and impacts quantified for a four-lane highway with two travel lanes in each direction, a divided median, and an approximate right-of-way of 200 feet. This highway was designed in accordance with MDOT’s design criteria for limited access freeways. MDOT proposes that two lanes be constructed. When traffic volumes increase, warranting additional roadway capacity, the remaining two lanes would be constructed.

- 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
- **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.**”

[Click here to view October 2003 Technical Memorandum.](#)

Alternative 2B, practically identical to 2B-2, was removed from further consideration for safety concerns. Oct. 2003 DOT/FHWA Tech Memorandum:



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

“Alternative 2B—This alternative would not be practicable because it would fail to meet the system linkage need, and would fail to adequately address the traffic congestion needs in the study area. Alternative 2B would use approximately 5 miles of Route 9. **Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards.**”

Additionally, this alternative would result in: **substantially greater proximity impacts** (residences within 500 feet of the proposed roadway) in comparison to Alternative 3EIK-2 (200 residences v. 12 residences).

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

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

The lack of existing access controls and the inability to effectively manage access along this section of Route 9, and the **number of left turns**, contribute to the poor LOS and **safety concerns**, and the inability of Alternative 2B to satisfy the system linkage purpose and need effectively.” (pages ii/iii/20/21)

- **All negative attributes of 2B in 2003 exist in 2019 with 2B-2!!**

[Click here to view October 2003 Technical Memorandum.](#)

The connector we thought we were getting:

For the first decade, the deliverable of this study panel was simple: conceive a connector with an approximate corridor length of 10.5 miles—a **high speed facility**—between I-395 in Brewer **to Route 9** at or near the Eddington/Clifton corporate boundary **to the east of Route 46**—designed in accordance with MaineDOT’s **design criteria for limited access freeways**—designed as a **four-lane highway** with two travel lanes in each direction, a divided median within and an approximately right-of-way of 200 feet—yet **built out initially as a two lane undivided highway** with the other two lanes added in the future as traffic capacity warrants. The study panel failed to provide that deliverable as 2B-2 does not meet MaineDOT’s own guidelines set early in the process.

- These guidelines were satisfied by 45 of the 79 studied alternatives.
 - 2B-2 satisfied only 1 of 5 (20%) of the study’s purpose and needs in April 2009, failing to meet the system linkage need and traffic congestion need.
 - Access management is not an issue with any alternative that meets the original decade-long “east of Route 46” system linkage need. There are zero local roads and zero existing drives or access points to undeveloped lots that impede access control.
-

The \$79.25 million connector (2B-2) we actually got:

What we got with alternative 2B-2: 6.1 miles of new pavement and 4.2 miles of Route 9 without additional improvements for a total corridor length of 10.3 miles—a **lower speed facility** than those designed using the study’s original guidelines and design criteria—a **controlled-access, two lane undivided highway** between I-395 in Brewer **to Route 9 west of the Eddington/Clifton corporate boundary by 4.2 miles**—conceptually designed using MaineDOT design criteria for freeways yet **built to rolling rural design criteria** with **no upgradability** to a four-lane divided highway (option removed by Oct. 2011)—with a questionable right-of-way of 200 feet as stated in the FEIS, although FOAA documents show that may be actually 100 feet to 125 feet.

- **“Route 9...would not provide a high-speed, controlled-access connection to the east of East Eddington village.”** [As 45 of the 79 studied alternatives did!] [FEIS pg. 26](#)
- That specific section of Route 9 was described in 2003 as: **“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.”

Campaigner Mills' infrastructure policy on her [campaign website](#):

Upgrade Quality and Safety of State's Roads, Bridges and Other Critical Infrastructure from the "D-grade" it has received over the past eight years:

- 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

That was the impetus to the three documents that I provided the newly elected governor and her transition team; I [wanted to believe that](#) a new administration would look more favorably on taking an unbiased look at this connector; I believed if the truth was known as how we got to this point, and the fact that the connector should have provided a limited-access facility from I-395 in Brewer to Route 9 east of Route 46 at or near the Eddington/Clifton corporate boundary, that would have been enough for a second-look.

I wanted to make sure that the I-395/Route 9 Connector project was part of the Governor's three month review and also make the point that 2B-2 is a near-term/short-term project as stated in MaineDOT's own documentation. Governor Mills' launch of the three month review and LD 783 share the same concerns; **are we optimizing our return on our limited state and federal funds or is 2B-2 just another expensive ribbon-cutting ceremony and photo op of a short-term project?**

The preferred alternative for this \$79.25 million project does not meet the decade-long original purpose and needs, specifically the system linkage need: **"must provide a limited-access connection between I-395 and Route 9 east of Route 46"** ([page 5](#)). The DOT will say they took a "hard look at Route 9" and after ten years of work, decided that Route 9 had enough capacity to allow an alternative (2B-2) that **met only 20% of purpose and needs in April 2009** ([page 343](#)), to be selected even though 45 of the 79 studied alternatives satisfied the east of Route 46 system linkage need.

The Route 9 east of Route 46 **system linkage need was engineered to intentionally bypass** the 35 mph section of both **the Village of East Eddington** and the intersections of Routes 9 and 46. This connector has been touted as the completion of the East/West Highway; would you promote a highway that has a 4.2 mile stretch, with 5 posted speeds from 35 to 50, that transits a village? MaineDOT Manager R.F. stated at the April 2009 PAC: **"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."** ([page 334](#)) **Constructing this connector without bypassing the Village of East Eddington is extremely shortsighted and fiscally irresponsible.**

When asked at that PAC meeting **in April 2009** why 2B-2 was kept in consideration since it only met 20% of the study purpose and needs and failed to satisfy the system linkage need, “Ray stated that the federal regulatory and resource agencies agreed with the dismissal of select alternatives based on the impacts and their ability to satisfy the study purpose and needs. The alternatives that tie into Route 9 at Eddington and use a section of Route 9 do not satisfy the purpose and need statement...Bill Plumpton explained that **a reasonable range of alternatives is needed in the DEIS**...Ray added that **the Corps specifically requested that at least one alternative that connects to Route 9 west of Route 46 be retained in the DEIS.**” [PAC Meeting minutes 4.15.2009](#) (Page 333/334).

If it was so important in April of 2009 to have at least one alternative that connects to Route 9 west of Route 46 retained in the DEIS, why was it not correspondingly as important to have at least one alternative retained in the DEIS in March 2012 that actually met the original-decade-long Route 9 east of Route 46 system linkage need? 2B-2 was kept in consideration even though by all guidelines 2B-2 should have been removed from further consideration.

We were told that this would be a transparent process with all communities treated equally; **the DOT will tell you that there have been NO “secret” meetings during this study outside of the PAC.** However, that’s not what one of the PAC members would say in [a letter to the DOT Manager in 2003](#). Alternative 4B was the first route to stand out; it paralleled Route 46, met the purpose and needs of the study and had the support from all communities except Holden. “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.” **One must wonder if this was the modus operandi during the rest of the study that led to 2B-2’s selection.**

LD 783 requests \$25,000 from the General Fund to fund a non-government study; **\$25,000 is a paltry 0.03% of the \$79.25 million construction cost of this connector** and if 2B-2 is the best transportation solution for our communities—one would think that the DOT would be more than happy to put 2B-2 up to independent scrutiny—to squash the opposition once and for all. The DOT will point at the FHWA

and the ACOE as justification—that's not good enough—as [Sandi Duchesne would further state](#): “I consider my role on the PAC to be that of a steward for the interests of all Maine citizens who will be using this connector (and paying for it), and I think the selected route **needs to be justifiable to all the people** and not just those of a particular small constituency. **The people whose lives and property will be disrupted by our final decision deserve nothing less.**” The DOT owes us that justification, we deserve nothing less, and that can only be obtained by the DOT agreeing to this independent study. **If 2B-2 is the holy grail for this project, 2B-2 will stand up to any scrutiny.** I contend that 2B-2 will not stand up to such scrutiny; the DOT with vehemently fight this resolve and that will stain this project and those politicians and civil servants that keep pushing it for years to come...

As to minimize the first decade of this study, one of the DOT's favorite talking points is that 3EIK-2 (the first preferred alternative) was never the DOT/FHWA preferred alternative; 3EIK-2 was intertwined within the history of how 2B-2 was questionably first brought into the process by the ACOE. These can be found in the file labeled [“The early years in the BDN”](#):

9.17.2003 (page 68) “Maine Department of Transportation officials have agreed to analyze a suggested alternative route for the I-395-Route 9 connector. On Monday, a group of Holden residents met with three state engineers in Augusta and presented a plan devised by John Bryant, head of Holden's planning board. The alternative route [2B-2] is very similar to the town's original Corporate Boundary Route.”

2.20.2004 (page 70) “Last summer, the Maine Department of Transportation made the decision to submit the Ring route, formally known as 3EIK-2, to the U.S. Army Corps of Engineers as its preferred I-395-Route 9 connector route.”

6.18.2004 (page 72) “In April the Corps acknowledged the Ring route as the preferred choice of DOT and the Federal Highway Administration. But the Corps decided it could not agree that the Ring route was the “least environmentally damaging practicable alternative” without conducting its own public interest review, according to DOT.”

8.17.2004 (page 78) “The Maine Department of Transportation submitted the 3EIK-2 route as its preferred route in April and since then the Army Corps has been reviewing it and the 2B2 route. The Federal Highway Administration also endorsed 3EIK-2.”

8.23.2004 (page 79) **“The corps is considering 2B-2 because Bryant and resident Jacqueline Smallwood presented it to them last fall,** said Jay Clement, the Maine representative for the corps. He said it was the public's interest in 2B-2 that prompted the corps to consider it. “That is their route,” he said.” Sure looks like 2B-2 was presented not to the DOT/FHWA, but to the ACOE outside of the normal process.

Once again, **meetings were held outside of the PAC** and one meeting with the ACOE may have omitted the DOT/FHWA and the **ACOE may have accepted 2B-2 into the study outside of the normal process of alternative selection**; as the primary permitting agency of this project, in my opinion, the ACOE representative was a little too approachable to the public outside of the PAC and I question his own public interest polling. Add that to the fact that **the ACOE had their own purpose and needs**, and as previously mentioned: “the **Corps specifically requested** that at least **one alternative** that connects to Route 9 west of Route 46 be retained in the DEIS.” [PAC minutes 4.15.2009](#) (Page 333/334), and one has to wonder, who was running the show and **was 2B-2’s inclusion into the study by the ACOE and the final selection of 2B-2 as preferred alternative and the ACOE LEPDA just a coincidence or was there something else going on?**

For the last time—3EIK-2 was the preferred DOT/FHWA alternative for some 7 years!!

To summarize—transportation professionals in 2003 stated: “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.” (page 5) Why are these words not being heeded in 2019? Why don’t we hold our civil servants and politicians to their previous words?

MaineDOT’s own documentation in [DEIS Appendix C](#) page 258 describes 2B-2 as meeting **system linkage need “In the near-term (Year 2035)”** with near term defined (assumed) as 20 years from commissioning. The following is a comparison of the 3EIK-2 to alternative 2B-2; 3EIK-2 was the first preferred alternative for this project.

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

3EIK-2 met system linkage need without the “in the near-term” disclaimer.

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



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

Transportation Improvement Strategies
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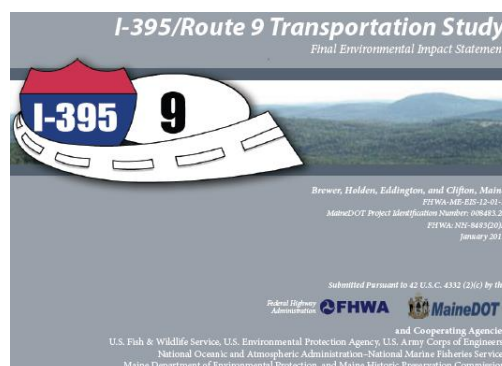


U.S. Department
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Maine Department
of Transportation

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 FEIS:](#)

[Click here to view October 2003 document.](#)

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 in April 2009.

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.

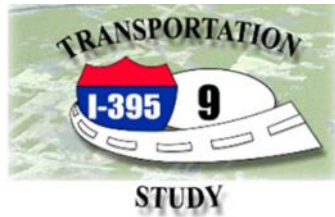
Route 9 connection point: 4.2 miles west of the long-term (original) system linkage need as per logical termini redefinition to: “the portion of Route 9 in the study area.”

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
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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



“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 2.

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.

[Click here to view meeting minutes.](#)

“...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 satisfies the study system linkage need essentially because—by golly—doesn’t satisfies ‘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.

The following was part of the answers from the DOT in [questions from US Senator Collins in January 2012](#). The only place I have been able to find a definition of long-term is from page 3 of this document: “Long-term system linkage is the continuity and the improved mobility in the transportation system that is essential for efficient vehicle movements, travel patterns, and safety after the design year 2030...Alternative **2B-2** satisfies the system-linkage in the study area in the short-term (i.e., present time to 2030).” The answer was the official DOT response from question 7 that asked about the note on the April 15, 2009 [Impacts to Land Use](#) (pg. 361) Note: **“Does not satisfy the long-term system linkage need that is satisfied by other study alternatives.”**

Per MaineDOT Memorandum dated 1.11.2012 “The 2035 design year would be consistent with a [20 year design for the project](#).” (page 19)

As evidenced from the previous page in [meeting minutes](#), the MaineDOT affirmed that the **“Route 9 east of Route 46” system linkage need and the need for a limited-access facility remained valid needs but deferred for 20 years as a long-term need**; at that same time, 2B-2 magically satisfied the system linkage need “in the near-term’ by parsing the original definition of “partially satisfies”.

In the
near-
term
(Year
2035)

The **DOT will not admit to 2B-2 being near-term or short-term** even though those terms are accurately described in MaineDOT documentation and the FEIS, and will not address what happens in 20 years when the long-term needs kick in. When I addressed the [March 2016 BACTS meeting](#), I spoke of the long-term needs of alternative 2B-2 and was promptly shot down by DOT officials who advised the panel that what I said was not true.

Why would anyone build a \$79.25 million road to only satisfy near-term needs? **2B-2 is a near-term project with unfunded long term needs.**



Because Route 9 is a 4.2 mile integral section of 2B-2, as described on page 258 of [DEIS Appendix C](#), negative attributes of Route 9 become part of 2B-2 and some of them cannot be so easily disregarded by a “hard look”.

Don’t let the DOT hide their previous statements concerning Route 9 such as: “Traffic congestion and **conflicting vehicle movements** on this section of Route 9 would substantially increase the **potential for new safety concerns and hazards**.” ([page ii](#)) “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.” ([page 21](#))

Traffic capacity may excuse some of Route 9's negative attributes—however—the **number of left turns is the same no matter what the traffic capacity**; I am unable to comprehend how the **inability to manage access points on that section of Route 9** with “**148 existing drives or access points**” is somehow eased by the DOT's “hard look” reference traffic capacity... ([page 20](#)).

What are the safety issues with left turns? **Left hand turns are inherently dangerous as you have to cross traffic to complete the maneuver.** [FHWA documentation](#) states: “**In rural areas, each access point added increases the annual accident rate by seven percent.**” The 148 access points of the Route 9 segment of 2B-2 makes one **1,036% more likely to have an accident on 2B-2** than any of the 45 alternatives that satisfied the “east of Route 46” system linkage need. Any of those 45 alternatives had zero access points; which alternative would you choose?

- 23 CFR 771.115 identification of a new controlled access freeway and highway projects of four or more lanes normally requiring an EIS; approximate corridor length 10.5 miles,

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.

Does 2B-2 meet the objective of the [NOI \(Notice of Intent\)](#) to proceed with the EIS from December 2015 on pages 72144 and 72145? If the NOI was not satisfied, there may be an argument that funds were misappropriated. Doesn't 2B-2 resemble more of a North Brewer Bypass instead of the regional connector to Clifton that was promised?

FHWA management changed the eastern logical termini based on the following statement from [FOAA # 000394](#) (see page 15): “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) 1-395 near Route 1A and (2) the portion of Route 9 in the study area to satisfy purpose and need. The NOI stated that the project would take place [from] 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.” Even the MaineDOT questioned that parsing. **The NOI does not state: “from the west to east through Eddington” as the FHWA (MH/CM) stated, but that didn't stop them.**

The eastern **logical termini** definition was **changed by the FHWA** in Jan. 2012, for inclusion into the DEIS, from a specific “Route 9 east of Route 46” **to a non-specific “the portion of Route 9 in the study area to satisfy purpose and need.”** Huh?

Interestingly 2B-2's design criteria and 2B-2's cost do not match in the DEIS or the FEIS. **The design criteria is freeway design—however—the cost is for rolling rural.** Why does that matter? **Because—it was intentional**, per FOAA documents (pages 23/24). And—intentionally making fraudulent statements on any document used in official government business is a [class D crime](#). This change was obviously made to make 2B-2 appear to be “affordable”.

How does the MaineDOT reconcile this statement: “Joan Brooks commented that **one of the requirements of the study is to create a limited access facility...** Ray added that **recent legislative policy instructs DOT to limit access on most major arterials in the state.**” [PAC Meeting #8](#) (page 136). The original-decade-long system linkage need specified a limited-access connection—however—since 2B-2 does not meet the original-decade-long system linkage need to the east of Route 46, **2B-2 is not a limited access facility**; 2B-2 is a controlled-access facility. **If there was such policy**, as mentioned by the MaineDOT project manager in July 2001, **why wasn’t that policy followed with the selection of 2B-2?**

We must also question 2B-2’s funding as the construction funding (\$79.25 million) has shifted to be more heavily dependent on the state. **The DOT Commissioner committed \$39.625 million of state funds in the October 2017** [INFRA grant application](#) for a 50/50 share in funding. The INFRA grant received last summer was for \$25 million—a \$14.625 million shortfall in what was expected; that shortfall will likely come out of STIP funds from other essential projects. **This project would have cost the state \$15.85 million (20%) at the customary 80/20 funding formula**—it would have cost the state \$39.625 million (50%) if the INFRA grant was fully funded—NOW—this project may cost Mainers as much as \$54.25 million (68.5%) of the construction cost!!

How can it be possible that this project was so badly managed that we have gone from 20% state funding to possibly a whopping 68.5%?

How can the state afford that large an expenditure on a single controversial project that many of us see no need for, when the state can’t afford to even maintain our existing roads and bridges? Wouldn’t those funds be better spent on Maine’s existing unmet transportation needs?

In an [August 2011 letter](#) (page 9) to Bypass Task Force Members, regarding the Wiscasset Bypass project cancellation, Commissioner Bernhardt stated: “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**. We know federal transportation funding will continue to decrease, and the era of special earmarks for transportation projects is over. The department has to look carefully at the potential cost and benefits of any new infrastructure being considered in Maine. Up until the last year, we believed that over time we could develop funding and make the case for spending what will be close to \$100 million on this bypass, however, this is no longer possible. Therefore, I have concluded that the long-term financial forecast—balanced against our number one priority of maintaining the infrastructure we already have and the limited benefits a bypass would provide—makes it impossible to justify that expenditure for this project.”

LD 783 also states that the selected entity must “...evaluate the cost and benefit assumptions that currently underlie the project...” Please view pages 6 thru 9 of “[We have no money...](#)” I question the Benefits to Cost Ratio of 2B-2 in 2012 and 2017; **in August 2012, the B/C ratio of 2B-2 was 1.1 and in 2017 that B/C ratio has now increased to 1.3.** Someone needs to explain the difference in B/C ratio analysis from 2012 to 2017. Was this a guesstimate or were the books cooked to promote 2B-2’s selection and further the INFRA Grant process? One should expect similar ratios as the cost and benefits would rise at similar rates over the years. If you compare the figures on page 8, 2B-2 in 2017 now has a larger B/C ratio with higher benefits and lower costs than those in 2012 on page 7. How can that be?

It should be noted that the Benefit/Cost ratio is a simple math equation; for the project to be considered fiscally acceptable, the ratio has to be 1.0 or greater and the larger the ratio, the more beneficial the project is. **Does alternative 2B-2’s Benefit/Cost ratio of 1.3 meet the “overwhelming benefits” redline that the Commissioner spoke about** upon cancelling the Wiscasset Bypass Study in August 2011 that had Benefit to Cost ratios of 2.27, 2.43 and 2.46? **This seems contradictory at best...**

BUT Commissioner Bernhardt continued promoting the I-395/Route 9 Connector with the preferred alternative (2B-2) possessing a Benefit-to-Cost-Ratio of only 1.1 to 1.3. How is that fiscally responsible, especially with a controversial project that does not meet the original purpose and needs from the first decade of this study?

2B-2 is a near-term project with long-term needs; 2B-2’s long-term system linkage need has been deferred for 20 years, thus 2B-2 does not provide long-term benefits, let alone “overwhelming benefits.”

[FOAA docs](#) would reveal that the **FHWA co-manager of the study advised** the DOT co-manager of the study **in December 2011** (within 3 months of the DEIS rollout) that the preferred alternative **(2B-2) no longer met purpose and needs because of recent downgrades in design criteria** only applicable to 2B-2, and he also stated that **further comparison to other alternatives was an apples to oranges comparison.** The FHWA representative was **overruled by his superiors.** Why was that gentleman silenced and why did the DOT not miss a beat in the process?

Why did the DOT/FHWA not pause and see how those downgraded designs would affect previously removed alternatives such as 4B? MaineDOT’s CE stated in a Jan 2012 Memo: **“Using a rolling design, earthwork quantities would be reduced by approximately 1/3”** [FOAA 431 \(page 13\)](#). Rolling rural would have decreased the “high” earthwork costs of 4B. At this point it seemed that the DOT/FHWA was more interested in just finishing the study than listening to the FHWA co-manager’s concerns...

If this resolve is adopted, the analysis has to go back all the way to the year 2000; to ignore the first ten years of this study—as the DOT has done—will be a disservice to the impacted communities. The [Technical Memorandum of October 2003](#) is extremely important as it not only set the need parameters for use within the study to at least the tenth year, a similar alternative to 2B-2 (2B) was analyzed and removed from further consideration for safety concerns. These safety concerns cannot be negated by taking a “hard look at Route 9” as the DOT would like you to think. Words from 2003 are just as appropriate today and can no longer be ignored.

If the entity tasked to report out on the results of the analysis are able to have input from the DOT, they must also take input from the impacted communities. The official MaineDOT I-395/Route 9 Transportation Study website was turned off in January 2017; the only place to readily access the study’s historical data is on my website: <https://i395rt9hardlook.com/>. I have a complete history of the PAC and a full history of the study as seen through the BDN with documents, also includes FOAA documents, impacted community resolutions of non-support, etc. That entity should not be denied access to my website and in fact should be encouraged to do so along with talking to the impacted communities. **The DOT must not be able to control the conversation as they have done so aptly through the last decade.**

I have several opinions on the \$25,000 cost of this proposed study; first, I have doubts if that is enough for a valid study; second, **\$25,000 is 0.001% of the DOT 2019-2020-2021 Work Plan** that was just issued and third, **the DOT should fund this resolve, as their lack of communication** with the impacted communities over the years has led to where we are today with **an alternative (2B-2) that many of us oppose and will never accept.** The **PAC and impacted communities were kept out of the decision-making process** when [the study went underground](#) for a 32 month period following the April 15, 2009 PAC meeting.

I understand my representative has been busy “lobbying” against this resolve in the halls of the State House; please read the following BDN article title: [“Selectman’s votes on I-395 project raise questions about conflict of interest”](#) and ask yourself why Mr. Lyford didn’t recuse himself from this issue, as should have been the honorable thing to do, since he has a personal agenda and a business agenda with the construction of 2B-2?

There are 203 bridges scheduled for repair/rehab for \$427 million per the [2019/2020/2012 MaineDOT Work Plan](#). At an average \$2.1 million per bridge project, 2B-2’s total construction cost of \$79.25 million could finance the repair of 38 bridges.

The facts are irrefutable; 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 east of Route 46 near the Eddington/Clifton corporate border.

The most honest statement in the DEIS:
“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)

Those were MaineDOT’s own words from the March 2012 DEIS and should have been a **disqualifying statement** for 2B-2, yet those words were **“scrubbed”** from the January 2015 FEIS!!

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

As throughout this study process—as evidenced above—**when prior statements don’t fit the current agenda, they are simply ignored, marginalized, or completely discounted—that’s also how they treat those of us that dare to disagree...**

[Commissioner’s Bernhardt’s words from August 2011](#) still ring true today:

“Adding more miles to our transportation system in this current fiscal environment doesn’t make financial sense,” said Bernhardt,

“Our responsibility going forward is to manage our existing infrastructure within our existing budget.” With current funding levels stable at best, MaineDOT concluded that the **expenditure of funds on new infrastructure was not justifiable.**

“The long-term financial forecast for transportation funding makes it difficult to continue to spend scarce resources on such a large, financially unviable project,” said Bernhardt,

“We are struggling to maintain the roads and bridges we currently have in safe and serviceable condition.”

I end with a question from the Army Corps of Engineers in the [Substantive Comments on the DEIS](#) (page 59) which the MaineDOT deemed as not substantive for comment, so the DOT wouldn’t have to address it: **“How do MaineDOT and FHWA intend to address the argument that the no-build alternative might save state and federal transportation funding that might be better served on other unmet needs in the state?”**

I thank Senator Rosen, Senator Carpenter, Senator Dow, Senator Farrin, Representative Stanley and Representative Verow for trying to shine a light on a questionable project.

I welcome any hard look at this project, please support LD 783.

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