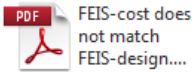


## LD 47, a followup and a thank you

Larry Adams

2/8/2015 8:03 PM

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Cc: Darlene Simoneau (Clerk) / 126th JSC on Transportation; Carol Woodcock / U.S. Senator Susan Collins; Elizabeth Montgomery Schneider MacTaggart / U.S. Senator Angus King; Michael Sinacore (Transportation Aide) U.S. Congressman Bruce Poliquin; Representative Arthur Verow - District #128; Representative Peter Lyford - District #129; Senator Kim Rosen - District #8;



Distinguished members of the Committee on Transportation of the 127th Maine Legislature:

I would like to thank you for providing the forum to voice our concerns in support of LD 47.

2B-2 is a confusing and often contentious issue that anyone outside the study area would not be expected to understand; the two newsletters provided in my written testimony are simply another means to send out the latest information to my neighbors and legislative delegation; they are full of information and are heavily referenced back to existing MaineDOT documentation. For example, I briefly mentioned how the logical termini had been morphed for inclusion in the DEIS; the March 2014 newsletter details (pages 14-15) the complete evolution of the changes to the eastern logical termini based on parsing of the Notice of Intent (NOI). Logical termini is one of the many changes in a Study that we are told has not changed.

Some of the same engineers working the study today were responsible for those highly negative statements in October 2003 regarding "the potential for new safety concerns and hazards" on 2B's and now 2B-2's 4.2 mile section of Route 9: "negatively affect people along Route 9 in the Study area" and "severely impact local communities along Route 9 between proposed alternative connection points and Route 46." Those are not my words; they are the words of transportation professionals within the October 2003 MaineDOT/FHWA/ACOE Technical Memorandum available on MaineDOT's Study website. Bill Plumpton of Gannett Fleming has been the lead engineering consultant from the onset, so although this Study may be on the fourth MaineDOT project manager, there is no loss of corporate knowledge. Nine years of this study must not and cannot be overlooked; I personally presented much of that data in my DEIS comments, the majority of which were not considered substantive for comment and were buried in the back of the book, unanswered. My questions to the DEIS take up 68 pages of FEIS Appendix A, pages 103-171.

Judges often instruct jurors to make up their own minds on witness testimony; if you hear one piece of testimony that is patently false, you can disregard part of, or all of the testimony. I stand by my testimony as 100% true, honest and accurate. Please take a serious look at the testimony that Ms. Heldmann and I offered. Yes, I am impacted and I don't apologize for my passionate opposition to this project. You've heard from both sides; the difference is that we presented facts, in MaineDOT's own words that dispute the 2B-2 selection. Those facts are now in the public record and the MaineDOT cannot suppress them as previously done under the cloak of not being substantive for comments to the DEIS. That being said, our job is done and it's up to your committee, as the primary oversight to the MaineDOT, to analyze our testimony and take appropriate actions as you deem necessary.

It didn't take long for Ms. Fisher to go into MaineDOT's "hard look at Route 9" defense; what used to make me cringe, now brings on a smile; their favorite talking point, centerpiece to their 2B-2 selection, loses validity as each day passes. I discuss this "hard look" in all three documents I presented. The original System Linkage Need and the need to provide a limited-access facility are still valid needs as the MaineDOT clearly stated during their rollout of the "hard look at Route 9" on September 21, 2010 (page 12 of March 2014 newsletter). The implementation of the original System Linkage Need has simply been delayed 20 years, now identified as a long-term need. FEIS Chapter 2, page 26: "2B-2 meets the System Linkage Needs in the near-term (before 2035)." How can that be, you ask? It is as simple as, the MaineDOT says so; back to the logical termini, the determining factor for System Linkage. The eastern logical termini was specifically defined as "Route 9 east of Route 46"; the eastern logical termini, for inclusion in the DEIS in January 2012, was nonspecifically redefined to "the portion of Route 9 in the study area"; the study area contains 12+ miles of Route 9. Now if you can't see a pattern here, I will never be able to grab your attention; with this

new definition, any alternative that simply connected to Route 9 in the whole study area would have met the near-term System Linkage Need. It's as easy as that.

Back to the significance of: "2B-2 meets the System Linkage Needs in the near-term (before 2035)." It is February 8, 2015 as I write this email, the time remaining between now and December 31, 2034 (before 2035) is 19 years, 10 months and 23 days; the life-design of the connector is 20 years. Not only does 2B-2 not meet the original System Linkage Need (considered a long-term need post Sept. 2010), 2B-2 does not even meet the FEIS System Linkage Need in the near-term to the complete 20 year design life as the "hard look" is timing-down and the numbers simply don't sync up anymore. For the "hard look" to work, the ribbon cutting ceremony would have had to been held no later than December 31, 2014. Do we really want to spend \$61 million on a connector that does not meet Purpose and Needs for the complete 20 year design-life of the project? That is what will happen if 2B-2 goes to construction, and a great argument for why it doesn't make sense to spend our scare transportation dollars on a project that cannot meet the Purpose and Needs from the onset.

In case you haven't had a chance to read the attachments to my written testimony, they consist of: my analysis of the "hard look" argument, the intent to downgrade 2B-2's design from freeway design criteria to rolling rural following the conclusion of the NEPA process, the intent to apply the reduced cost of that future downgraded design immediately in the DEIS, the evolution of 2B-2's cost that ends with a FEIS-stated cost disparity of -\$32.24 million, changes in Right-of-Way that have been well documented since April 2013, yet now disavowed in the FEIS, and finally a disagreement between the MaineDOT project manager (JL) and the FHWA project manager (MH) over whether or not the preferred alternative met Purpose and Needs, (MH) did not believe on December 13, 2011 that the preferred alternative met the Purpose and Needs after recent criteria changes (again, more changes in a study that hasn't changed): "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." and "...Mark has stated as the alternatives will move forward as a 2-lane/2-lane the analysis is now apples to oranges comparison."☒

The FEIS-stated-cost does not match the FEIS-stated-design criteria as MaineDOT's own documents reveal. Using the jury instructions analogy, I can categorical, 100%, dismiss the FEIS as patently false until someone can prove to me how 2B-2's cost when designed using the FEIS-stated: "MaineDOT's design criteria for freeways" suddenly was reduced by \$32.24 million to the FEIS-stated cost of \$61 million. Please view attached document.

FEIS-stated \$61 million cost is only true for the future "rolling design" or "rolling criteria".

FEIS-stated \$61 million cost is not the true cost using "MaineDOT's design criteria for freeways".

FEIS-stated \$93.24 million is the true cost using "MaineDOT's design criteria for freeways".

I questioned the cost disparity in my comments to the DEIS on April 13, 2012 (FEIS, Appendix A, page 106.) and the question was not considered substantive and was buried, unanswered and here we are three years later and I am still questioning the same issue.

I also think there's a good argument that this study is non-compliant with the National Environmental Policy Act (NEPA) and has been non-compliant since at least December 2011. All alternatives are supposed to be analyzed with the same criteria as was apparently the basis of concerns by Mr. Hasselmann on December 13, 2011; we now know that 2B-2's design was to be changed to rolling criteria following the conclusion of the NEPA process, we now know that the reduced cost of the downgrade was to be shown in the DEIS, we now know that the FEIS-stated cost of 2B-2 is \$61 million which does not match up with the FEIS-stated-design of "MaineDOT's design criteria for freeways" so essentially 2B-2 has already been changed to rolling criteria even though the FEIS says otherwise which would be non-compliant with NEPA.

Apparently only the inner-circle of this study knows the real cost, the real design criteria and the real right-of-way of alternative 2B-2 at this time and in the end-state. The rest of us are shown a \$2 million report and led to believe that it is totally accurate; where is the accountability to the public? What is the end-state

design and ROW? I would bet, soon after the NEPA process concludes, which may be as soon as March 2, 2015 with the release of the Record of Decision, that the FEIS-stated freeway design will be changed to rolling rural and the FEIS-stated ROW changed from 200' to 100'; they may already have been changed.

We were "invited" to send comments to the DEIS and voice our concerns at the Public Hearing, however, we commented on the best information we had at the time and that was the DEIS; by withholding critical information on future changes in design criteria (FOAA March 2013), the MaineDOT was always able to control the conversation. But, not only was the public at a disadvantage, the DEIS was the same information that all the many state and federal cooperating agencies reviewed for sign-off on the project. We will never know how the cheaper \$61 million cost may have influenced reviewer's decisions, but one could certainly make an argument for it; that \$61 million cost talking point has been out there since the March 2012 DEIS.

Don't we, the impacted communities, deserve to know actual facts so we can understand the level of our impacts? And, if you're wondering why we didn't raise these issues at the May 2, 2012 Public Hearing, that's simple; we didn't have the information at that time. The Town of Eddington filed a FOAA in October of 2012 that was not received until March 2013, information that should have been freely shared had obviously been freely withheld and if you look at the dates of the FOAA documents, they predate the March 2012 DEIS and the May 2012 Public Hearing. A public apology was issued from the MaineDOT on January 6, 2012: "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." While Mr. Talbot was apologizing, information was still being withheld; we wouldn't have that information today if it wasn't for the Eddington FOAA filing; I believe it cost the town around \$500.00 for the privilege of obtaining information that should have been provided for free, in a timely fashion.

Some 200 citizens attended the May 2012 Public Hearing; 19 of us rose that night, including several elected officials, to speak in clear opposition to 2B-2 and not one single person rose in support of 2B-2. A petition of non-support with 390 Eddington-only-signatures was presented to the MaineDOT during the hearing. The City of Brewer has issued resolves of non-support three times, the latest dated January 13, 2015 as presented to your committee at the LD 47 Public Hearing and the Town of Eddington has issued two resolves of non-support to date which gives a clear indication how our municipal officials see the matter.

The EIS is no longer a draft and should not contain any errors, whether accidental or intentional and not be used as a sales brochure for 2B-2. This charade needs to end and the "hard look" should be focused towards the Study. Our government needs to be accountable to all, not just the few; besides the removal of 2B-2 from further consideration, we seek accountability for what has occurred since April 2009. I certainly feel no responsibility for that \$2 million; that lies solely on the management of this Study or, I would offer, the mismanagement of this Study.

I am a proud Vietnam veteran serving seven years in the Air Force; my tenure at the FAA gave me 40+ years of Federal Government service; I know how the government works and I am ashamed of what I have witnessed over the past three years.

Please, feel free to contact me for clarification of anything that I've presented; email is my choice of contact.

I wish you well and thank you for the important work you do for the citizens of Maine.

Sincerely, Larry Adams