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## LD 47 follow-up information & thank you

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Honorable Members of the Committee on Transportation:

Thank you again for the opportunity to present testimony at the public hearing for LD 47 yesterday. I wanted to take a moment to address some of the items mentioned in other testimony.

I would like to state again that I am not directly affected by the 2B-2 connector, and if anything, that option would likely reduce the truck traffic in front of my house on Rt. 9. I also agree that Rt. 46 is very unsafe and something needs to be done - but a short-term band-aid fix that does not meet the Purpose and Needs is not the answer.

### Ms. Fisher stated that 2B-2 meets the Study Purpose and Need, but I still contend it does not

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

This is a slide from the presentation made at the April 2009 Public Advisory Committee (PAC) meeting. It clearly shows 2B-2 does not meet four out of five P&N requirements.

There are also these key timeline dates to consider:

- 02/2002 MDOT Alternatives Narrowing Process: To improve regional system linkage, 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 provide a substantial improvement

in regional mobility and connectivity and would negatively affect local access. 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.

- 02/20/2002 PAC: Bill Plumpton gave an overview of the MDOT process of review and logic to reduce the number of alternatives for final comparison and detailed analysis (see attached). To fully satisfy the study purpose and need of improved system linkage, Bill said an alternative has to tie into Rte 9 east of Rte 46. **For these reasons, MDOT removed route 2B from the alternatives.**
- 05/22/2002 PAC: "The Agencies" want to keep 2B because it "could be 'practicable' in accordance with the law. Bill Plumpton defined practicable as 'available and capable of being done after taking into account cost, existing technology, and logistics in light of overall purpose.'"
- 01/15/2003 PAC & 10/2003 Army Corps Technical Report: **Alternative 2B (nearly identical to 2B-2, see attached comparison map) was dismissed prior to this [PAC] meeting because it would inadequately address the system linkage and traffic congestion needs.**
- 10/2003 Army Corps Technical Report: **"...Alternative 2B's ability to satisfy the system linkage and traffic congestion needs is questionable." "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."**

### **Senator Diamond's question regarding changes to the Study Purpose and Need was not really answered**

I refer back to the quote above from the 10/2003 Army Corps technical report, "This alternative [2B] 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." and also from that report, "Alternative 2B was dismissed prior to this [Jan 2003 PAC] meeting because it would inadequately address the system linkage and traffic congestion needs." 2B and 2B-2 are nearly identical (see attached comparison map) and both intersect Route 9 over four miles west of the intersection of Route 46. It does indeed seem that P&N changed, or interpretation of P&N changed.

The answer I heard to the question posed, consisted of insisting the "hard look" did show that 2B-2 meets P&N, and that there were too many vernal pools on other routes. Well if the Study P&N were not changed, then certainly the interpretation of how to meet those requirements did. At the last PAC meeting, other routes met all five out of five criteria, and 3EIK-2 was the preferred route. The MDOT embarked on a more in-depth environmental assessment and discovered many vernal pools along the 3EIK-2 route. (You can read more about my thoughts on the scientific methodology of how they did vernal pool field assessments and other habitat assessments in the first attachment to my LD testimony, which is my May 2012 public hearing testimony.) So too many vernal pools were discovered for the Army Corps to ever grant a permit for 3EIK-2 - that's fine. But ***that doesn't mean that somehow 2B-2 now magically meets P&N just because too many vernal pools were found on another route.*** Yet somehow, between the April 2009 PAC meeting and the discovery in December 2011 of the complete change in preferred route, 2B-2 now meets all P&N. This decision was made by the agencies without any further public input, which certainly does fall in line with the Purposes and Findings of the Sensible Transportation Policy Act:

*"The people further find that the decisions of state agencies regarding transportation needs and facilities are often made in isolation, without sufficient comprehensive planning and opportunity for meaningful public input and guidance."*

but does not fall in line with the overall point of the STPA:

*"Incorporate a public participation process in which local governmental bodies and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions and project decisions. The department and the Maine Turnpike Authority shall take the comments and concerns of local citizens into account and must be responsive to them."*

The "hard look" was also reiterated, and that more research would have to be done to determine what that consisted of - well I have already been there and done that with my FOAA requests and lawsuit. ***There is no data.*** Quite simply, because of too many vernal pools on the 3EIK-2 preferred route, the agencies changed how they interpret P&N, and decided 2B-2 met the criteria - maybe because they were told it was one that will be taken to the Governor regardless?

I will also state that the other two routes (5A2B-2 & 5B2B-2) in the DEIS/FEIS also intersect Rt. 9 at the same location and should also therefore be scrapped as they also do not meet P&N.

**Concerns were raised over the possibility of having to return \$2M to FHWA**

What costs less, the possibility of having to return \$2M to FHWA, or spending \$61M or more on a short-term band-aid fix that doesn't truly meet the P&N? I believe the state ended last fiscal year with a \$49M surplus.

**Concerns raised over setting a precedent of legislative action against an agency**

It is within the jurisdiction of this committee to provide oversight to the MDOT. This is a vital part of our checks and balances system. There should be no concerns in this regard.

**Conclusion: No matter how many times you take a "hard look" at Route 9, 2B-2 has never, and will never, meet the Study Purpose and Needs.**

Thank you again for your time and consideration. Please contact me with any questions, or feel free to peruse the information available at <http://i395rt9hardlook.com/>

Sincerely,  
Gretchen

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**3 attachments**

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Alternative	Water/Channel			Wetlands		
	Study Purpose	ISAC/Permit	System Linkage	Wetlands	Wetlands	Wetlands
No-Build	Red	Red	Red	Red	Red	Red
Alternative 1-Upgrade	Red	Red	Red	Red	Red	Red
2B-2	Green	Green	Green	Green	Green	Green
2B-2B-2	Green	Green	Green	Green	Green	Green
2B-2	Green	Green	Green	Green	Green	Green
2B-2B-1	Green	Green	Green	Green	Green	Green
2B-2B-2	Green	Green	Green	Green	Green	Green
2B-2B-3	Green	Green	Green	Green	Green	Green

PurposeNeeds2009PAC.jpg  
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