

To: U.S. Secretary of Transportation Anthony Foxx; FHWA Administrator Gregory Nadeau;

Cc: Marlys.Osterhues@dot.gov; MHasselmann@dot.gov; Cassandra.Chase@dot.gov; Cheryl.Martin@dot.gov; Ken.Dymond@dot.gov; Gerald Solomon FHWA; Brewer City Council; Brewer City Manager; Councilor Jerry W. Goss; Councilor Joseph Ferris; Councilor Kevin O'Connell; Deputy Mayor Beverly Uhlenhake; Mayor Matthew Vachon; Representative Arthur Verow - District #128; Gretchen Heldmann; nricker@bangordailynews.com; Robert Kenerson/BACTS; Carol Woodcock / U.S. Senator Susan Collins; Todd.jorgensen@dot.gov; Elizabeth Montgomery Schneider MacTaggart / U.S. Senator Angus King;

Gentleman,

Many residents of Brewer, Holden and Eddington in Maine's Penobscot County are impacted by the selection of a preferred alternative (2B-2) that does not meet the original I-395/Route 9 Transportation Study's Purpose and Needs. The System Linkage Need criteria, to provide a limited-access facility from I-395 to Route 9 east of Route 46, was changed 10 years into this study, by September 2010, to a long-term need, essentially deferring (but not changing as some may want you to think) the Study's original System Linkage Need (#1 Need of the 3 Study Needs for this project) for 20 years into an unknown and unfunded future. A downgraded design criteria set in December 2011, different than the design criteria used to analyze the other 79+ studied alternatives, was used to evaluate the 2B-2 alternative much to the chagrin of the Study's FHWA counterpart.

We can't afford to maintain our existing roads and bridges, but here's a questionable project that will require an influx of \$Tens of millions in the future for a retrofit necessary to meet the Study's Purpose and Needs that should have been met at the onset of the project!? Retrofitting 2B-2 in 20 years could easily double the current \$61 million price tag.

An identical route (2B) was removed from further consideration in January 2003 because: "Traffic congestion and conflicting vehicle movements on this section of Route 9 would substantially increase the potential for new safety concerns and hazards...would negatively affect people living along Route 9 in the study area...would severely impact local communities along Route 9 between proposed alternative connection points and Route 46." Those are the words of MaineDOT/FHWA transportation professionals in an [October 2003 Technical Memorandum](#).

How an alternative deemed so completely unacceptable in 2003 for specific reasons of traffic congestion, conflicting vehicle movements, safety concerns and hazards (Safety Concerns Need and Traffic Congestion Need are the #2 and the #3 Study Needs), and the negative effect that this alternative would have on the local community living on Route 9—would suddenly, almost magically, become so completely acceptable in 2015 for an expenditure of \$61 million in scarce transportation dollars, is mind boggling at best; it appears that traffic congestion, safety concerns and hazards, and negative impacts to the people that have to live on or near this ill-conceived alternative are no longer MaineDOT/FHWA's main concern.

Our comments/questions/concerns are presented on the following [citizen's website](#). Comments to the inclusion of this project into Maine's 2014-2017 STIP can be viewed in the [**Latest Updates**](#) section. I contend that this Study intentionally skirted NEPA regulations and I strongly believe this Study and the subsequent selection of 2B-2 as the preferred alternative should be investigated and substantiated by the DOT Inspector General. Anything short of that is a disservice to the people to be impacted by this project. All we have ever asked for was accountability, and to date we have seen none.

That being said, please tell me why no one from the FHWA, of the many addressees in this email string, feels any obligation to answer my questions and address my immediate concerns. My emails from August 19 and September 2 have gone unanswered. IF 2B-2 is such a great selection, why is everyone so reluctant to discuss it?

I am retired with 41+ years of combined federal service in the USAF and the FAA; this is not the government and the Department that I once worked for. We depend on the expertise of our government agencies to act in our behalf; to continually ignore questions and concerns from a private citizen is totally unacceptable and needs to be addressed from the highest of levels.

Larry Adams | Brewer, Maine

From: [Larry Adams](#)

Sent: Wednesday, September 02, 2015 9:17 PM

To: Todd.jorgensen@dot.gov

Cc: Marlys.Osterhues@dot.gov ; MHasselmann@dot.gov ; Cassandra.Chase@dot.gov ; Cheryl.Martin@dot.gov ; Ken.Dymond@dot.gov ; Gerald.Solomon@dot.gov ; [Brewer City Council](#) ; [Brewer City Manager](#) ; [Councilor Jerry W. Goss](#) ; [Councilor Joseph Ferris](#) ; [Councilor Kevin O'Connell](#) ; [Deputy Mayor Beverly Uhlenhake](#) ; [Mayor Matthew Vachon](#) ; [Representative Arthur Verow - District #128](#) ; [Gretchen Heldmann](#) ; nrick@bangordailynews.com ; [Robert Kenerson/BACTS](#) ; [Carol Woodcock / U.S. Senator Susan Collins](#)

Subject: Re: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Jorgensen,

While your agency contemplates answers to questions I posed two weeks ago in my August 19th email, I have another issue that needs immediate consideration before the ROD.

The now infamous September 2010 “hard look at Route 9” didn’t change or diminish the study’s original system linkage need and the need for a limited-access facility to Route 9 east of Route 46, it simply deferred those needs to a future date: “...the 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.” (Sept 21, 2010)

2B-2’s long-term needs are necessary only because of the ill-conceived decision to use that 4.2 mile section of Route 9 as an integral part of alternative 2B-2 in the first place; any of the 79+ studied alternatives meeting the system linkage need intentionally bypassed that same 4.2 mile section of Route 9 and had zero long-term needs and associated costs.

There are only two options to satisfy 2B-2’s long-term needs: adding an additional 5-6 miles of new roadway from 2B-2’s Route 9 connection point to the east of Route 46 OR remove all local access from 2B-2’s 4.2 mile section of Route 9. Either option will be expensive and cause further impacts to the Town of Eddington. A town cannot survive when you remove 4.2 miles of Main Street.

In a December 16, 2011 email (FOAA #000131) MaineDOT (JL) states: “On December 13, 2011 Mark Hasselmann contacted me to discuss the I-395/Route 9 Administrative Draft EIS. Most of his comments were routine although two require further joint MaineDOT/FHWA discussion: 1.) What are the long and short term needs of Route 9? If there are needs not discussed in the AD DEIS there is a big piece of documentation missing.” (Mr. Hasselmann, once again, was trying to do his job and I applaud him for his efforts.)

These questions need to be answered:

What is the long-term need of Route 9?

Where is the documentation for any plan to satisfy 2B-2’s long-term need of a limited-access facility to the east of Route 46? You owe it to Eddington to tell them what the future holds for their town. Shame on you if you don’t!

Why was the cost to meet 2B-2’s future long-term needs not included in the DEIS/FEIS-stated cost as a total cost of this project? It seems that the FEIS only tells part of the story; the real story is, if you add the cost of satisfying future long-term needs to the DEIS/FEIS-stated \$61 million cost, it’s not unreasonable to think that this cost could easily double in 2035/2040 dollars. The fact is 2B-2 is not as cheap to construct as the MaineDOT likes to declare when you consider the extra cost of 2B-2’s long-term needs.

If all 79+ studied alternatives were to be analyzed with the same criteria, once again 2B-2 stands alone. Near-term is not the end state for 2B-2, yet the majority of the 79+ studied alternatives were evaluated in their end state and once again we have an “apples to oranges comparison”. This convenient omission in the DEIS/FEIS of any discussion reference 2B-2’s long-term needs and especially the cost to satisfy

those long-term needs is a disservice to this area and the people impacted by this project. Mr. Hasselmann was right, there does seem to be “a big piece of documentation missing”.

Spending \$Tens of millions, 20 years from now to retrofit 2B-2 to meet long-term needs, needs that should have been met at the onset of the project and in fact were met by the first MaineDOT/FHWA preferred alternative, is a waste of scarce transportation funds and an example of bureaucracy gone wild...

Larry Adams

From: [Larry Adams](#)

Sent: Wednesday, August 19, 2015 5:58 PM

To: Todd.jorgensen@dot.gov

Cc: Marlys.Osterhues@dot.gov ; MHasselmann@dot.gov ; Cassandra.Chase@dot.gov ; Cheryl.Martin@dot.gov ; Ken.Dymond@dot.gov ; Gerald.Solomon@dot.gov ; [Brewer City Council](#) ; [Brewer City Manager](#) ; [Councilor Jerry W. Goss](#) ; [Councilor Joseph Ferris](#) ; [Councilor Kevin O'Connell](#) ; [Deputy Mayor Beverly Uhlenhake](#) ; [Mayor Matthew Vachon](#) ; [Representative Arthur Verow - District #128](#) ; [Gretchen Heldmann](#) ; nricker@bangordailynews.com ; [Robert Kenerson/BACTS](#)

Subject: Re: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Jorgensen,

I have waited patiently for an update from your agency concerning questions I first posed to Mr. Solomon, FHWA's Point of Contact for NEPA.

We only seem to receive updates after the fact, when it's too late to respond; we just learned from MaineDOT/Charette that we missed an opportunity to voice our opposition to this project, this time to BACTS.

The FEIS essentially has cost \$2.75 million and it appears too easily changed as needed to forward the project. The DEIS/FEIS-stated-cost is based on rolling design criteria, as affirmed by Mr. Solomon, while the DEIS/FEIS-stated-design is based on MaineDOT's freeway design criteria. **I want someone to finally explain to me why the cost stated in the DEIS/FEIS is not based on the design stated in the same DEIS/FEIS.** No one seems to want to address that little disparity which I believe proves non-compliance with NEPA and may also be in violation of [Maine State Statute](#).

What is the current status of your office's re-evaluation of the updated traffic estimates? I had presumed that this should have been completed by now and I have been expecting an update as your April 2nd email promised. The 20 year design life of this project guarantees traffic capacity of Route 9 for 20 years after construction and is the basis of MaineDOT's “hard look at Route 9 and the subsequent selection of 2B-2 as the preferred alternative. First defined to the year 2030 in September 2010, to the year 2035 in January 2012 for inclusion in the DEIS, carried forward as the year 2035 in the FEIS and now apparently, changed to the year 2040 only after I personally advised Mr. Solomon that the 2035 design year did not satisfy Purpose and Needs for the whole 20 year design of the project, specifically the short-term system linkage need. Allowing the MaineDOT to change the design year, once again, to correct this short-term system linkage need error in the FEIS is suspect at best. And once again, the FEIS is in question.

Also, Mr. Solomon stated that the alternatives in the EIS were compared with the same criteria, however, **were't all 79+ studied alternatives, not just 2B-2, supposed to be evaluated using the same identical criteria?** 2B-2 was analyzed with a totally different criteria set: the change from 4-

lane/4-lane ROW to 2-lane/2-lane ROW by October 2011; the change to rolling criteria that was first discussed on December 6, 2011(FOAA #000391/392) as a future change and essentially changed pre-DEIS per a MaineDOT Chief Engineer's Memo in January 30, 2012 (FOAA #000431); and the disputed reduction in ROW from approximately 200' to between 100' to 125', first discussed in August 2011 (FOAA #001143) and affirmed by MaineDOT Commissioner in April 2013 with the Office of Senator Collins even though it is passed off as a "brief discussion...never changed" in the FEIS. All the evidence found to date questions the validity of NEPA compliance within this study, let alone the fact that 2B-2 only satisfied 20% of the Study Purpose and Needs in April/May 2009.

No one will address how the FHWA representative to this study in December of 2011 (within 3 months of the DEIS publication) was concerned enough that he advised his MaineDOT counterpart that the preferred alternative no longer satisfied Purpose and Needs because of recent criteria changes and going forward the study was an "apples to oranges comparison", yet the study continued on with no FOAA evidence of any substantive discussion between the FHWA and the MaineDOT on the merits or failings of alternative 2B-2. **Why were Mr. Hasselmann's concerns apparently so easily dismissed by FHWA management?**

Feel free to view our many concerns @ <http://i395rt9hardlook.com/>

Larry Adams

From: Todd.jorgensen@dot.gov
Sent: Thursday, April 02, 2015 1:43 PM
To: bgradams@roadrunner.com
Cc: Marlys.Osterhues@dot.gov ; MHasselmann@dot.gov ; Cassandra.Chase@dot.gov ; Cheryl.Martin@dot.gov ; Ken.Dymond@dot.gov ; Gerald.Solomon@dot.gov
Subject: RE: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Adams,

Your March 9 email was forwarded to me by Gerry Solomon, and I was asked to respond. The DEIS for the I-395/Route 9 Transportation Study evaluated the impacts of the three build alternatives utilizing a 200 foot-wide corridor. In order to compare each alternative equally, the new alignments were evaluated using freeway level design criteria. In an effort to further minimize impacts and reduce costs, the MaineDOT then applied the less environmentally damaging arterial rolling design criteria and revised the cost estimates of each of the build alternatives. If the project is advanced, the MaineDOT will continue to refine the alignment within the preferred 200 foot-wide corridor to further avoid and minimize impacts to the natural, social, and economic environments, as indicated on page 39 of the FEIS. My office is currently re-evaluating the FEIS to assess the updated traffic estimates, and we will advise you of the outcome of this process once it is completed. Your recent comments will also be addressed in the Record of Decision.

Should you have additional questions or concerns, please feel free to contact Mark Hasselmann (mark.hasselmann@dot.gov) in my office.

Todd D. Jorgensen
Division Administrator
Maine Division
(207)512-4911

-----Original Message-----

From: Larry Adams [bgradams@roadrunner.com]

Sent: Monday, March 09, 2015 07:03 AM Eastern Standard Time

To: Solomon, Gerald (FHWA)

Cc: Brewer City Council; Brewer City Manager; Councilor Jerry W. Goss; Councilor Joseph Ferris; Councilor Kevin O'Connell; Deputy Mayor Beverly Uhlenhake; Mayor Matthew Vachon; 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

Subject: Re: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Solomon,

Thank you for your reply. I not only questioned the cost in my previous email, but I questioned the design criteria associated with that \$61 million construction cost. We both seemingly agree that the \$61 million represents a change from freeway design criteria to rolling design criteria, so that's a move in the right direction.

So that I can fully understand this process, please provide the chapter and page number that describes 2B-2's design criteria using the words rolling, rolling design, rolling criteria or rolling design criteria in reference to the \$61 million construction cost as I am currently unable to locate those references in either the DEIS or the FEIS.

You stated *"The DEIS and FEIS have been consistent in the information provided concerning impacts and costs."* Also consistent throughout the DEIS and the FEIS since March 2012 has been the design criteria as stated in the FEIS Summary page s7: *"The build alternatives would be controlled-access highways and were conceptually designed using the MaineDOT design criteria for freeways."* and in the FEIS Summary page s13: *"Alternative 2B-2 would be a controlled-access highway and conceptually designed using the MaineDOT design criteria for freeways."*

I have attached a one page document, from one of my previous newsletters, that starts with excerpts from an April 17, 2013 hyperlinked Bangor Daily News article, following the release of 1,239 FOAA documents to the Town of Eddington, with a quoted response from the MaineDOT project manager (RC) and a follow-up email, dated April 19, 2013, from the same MaineDOT Project Manager. Note that this email is dated some 13 months after the release of the March 2012 DEIS. MaineDOT (RC) states: *"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."*

An interesting note was added in the FEIS Chapter 2, page 22: *"* While there were brief discussions regarding reducing the width from 200 feet to 100 or 125 feet, the right of way width was never changed and remains the 200-foot width as described in the DEIS."* This 100' to 125' ROW was revealed in an August 2011 email (FOAA #1143) and confirmed along with the change to rolling design with the MaineDOT Commissioner by an unimpeachable source in April 2013; that's a period of 20 months – not exactly a "brief discussion".

1. FOAA #0391, dated Dec. 6, 2011, revealed the intent to downgrade the preferred alternative to rolling design "following the conclusion of the NEPA process", yet apply that cost reduction up front in the DEIS.

2. FOAA #0431, dated Jan. 30, 2012, revealed the one-third reduction in cost based on rolling design.
3. The DEIS was released on March 8, 2012. 2B-2's DEIS-stated cost is \$61 million and 2B-2's DEIS-stated design is: "...the MaineDOT design criteria for freeways."
4. MaineDOT (RC) stated on April 19, 2013: "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."
5. The FEIS was released on January 20, 2015. 2B-2's FEIS-stated cost is \$61 million and 2B-2's FEIS-stated design is: "...the MaineDOT design criteria for freeways."
6. On March 6, 2015 the FHWA admits: "The cost estimates in the DEIS and FEIS were based on the rolling design criteria and range from \$61 to \$81 million."
7. Yet, the DEIS/FEIS still states: "Alternative 2B-2 would be a controlled-access highway and conceptually designed using the MaineDOT design criteria for freeways."

How do you explain FHWA's revelation that the FEIS-stated \$61 million cost is based on rolling design and yet the FEIS-stated design criteria is "...the MaineDOT design criteria for freeways."?

How can the \$61 million cost be based on rolling design when the MaineDOT project manager reaffirmed in April of 2013 that the criteria was the "Freeway" design standard as documented in the DEIS?

You cannot have it both ways; the freeway design criteria design is an intentional misrepresentation of fact (yes, a lie) within a \$2.7 million dollar NEPA document. In my eyes, it appears that NEPA is nothing more than another regulation that the Government hides behind and uses to their advantage; it has completely failed my family and the impacted communities.

The FEIS is the culmination of a study of 79+ alternatives from December 1, 2005 when the EIS Notice of Intent was issued in the Federal Register. All alternatives were to be studied with the same design criteria and that was with a Freeway design standard and a Right of Way for the project corridor of 200' minimum as the MaineDOT project manager restated in April 19, 2013. The Final EIS was signed off by the FHWA on January 20, 2015 and should be 100% accurate as it is the current document of record and the primary decision document used for the ROD; this is no longer a draft document.

This cost versus design misrepresentation does not pass the smell test or the straight face test; I believe this was an intentional act to sidestep NEPA regulations and would I submit to you that even sidestepping NEPA regulations would be non-compliant with NEPA.

The NEPA process may be undertaken through your Division Office, but I firmly believe there is non-compliance written all over this FEIS and as you are the point of contact to ensure NEPA compliance for the whole FHWA, I ask you to do just that.

Please advise if I should be talking to someone else of a higher authority within the FHWA on this issue; my next step will be to contact the Office of the Federal Environmental Executive (OFEE) and request their guidance as I have done in the past.

Sincerely, Larry Adams

From: Gerald.Solomon@dot.gov
Sent: Friday, March 06, 2015 4:52 PM
To: bgradams@roadrunner.com
Cc: MHasselmann@dot.gov ; Todd.jorgensen@dot.gov ; Cheryl.Martin@dot.gov ; Cassandra.Chase@dot.gov ; Ken.Dymond@dot.gov
Subject: RE: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Adams

Thank you for your e-mail dated February 25, 2015, concerning the I-395/Route 9 Transportation Study in Brewer, Holden, Eddington, and Clifton, Maine. As you are aware, the NEPA process is undertaken through our Division Office. Accordingly, I have consulted with our FHWA staff in Maine to respond to the questions you raised.

In your e-mail, you question the estimated construction cost of the preferred alternative 2B-2. During the NEPA process, since final design has not yet begun, cost estimates are made at a conceptual planning level using engineering judgment and the best information available at the time. As more information is gathered and as the project is designed, these planning level estimates are greatly refined resulting in more detailed cost estimates. Prior to publication of the DEIS, the costs of the alternatives were roughly estimated to range between \$93 and \$121 million. The alternatives presented in the DEIS and FEIS were evaluated using the same design criteria. In an effort to further minimize impacts and reduce costs, the design was changed from freeway level to rolling. The cost estimates in the DEIS and FEIS were based on the rolling design criteria and range from \$61 to \$81 million. The DEIS and FEIS have been consistent in the information provided concerning impacts and costs. The record shows that the impacts were presented in the EIS in a comprehensive and fair manner and analyzed and presented to the public and stakeholders with input from all affected and interested parties.

Concerning the design year traffic projections, you are correct that it is appropriate to use a 20-year design year that begins once the proposed highway construction is complete. Since the design year noted in the EIS is 2035, MaineDOT revisited the traffic information for the design year of 2040. The most recent available data for Route 9 east of Route 46, counted in 2012 as 5760 vehicles per day, is very close to the 2015 base year volume of 5830 and confirms that previous projections have been reasonable. Therefore, it is estimated that the 2040 volume would follow the long-term trend beyond 2035 and results in a 2040 forecast for Route 9 east of Route 46 of 11,560 vehicles per day. For Route 9 west of Route 46, the corresponding 2040 forecast would be approximately 13,000 vehicles per day. These volumes are well within the capacity of a 2-lane highway for the design year 2040.

We appreciate your comments. Should you have additional questions or concerns, please contact Mark Hasselmann (mark.hasselmann@dot.gov) at our Maine Division Office.

Thank you.

Gerry Solomon
Director
FHWA Office of Project Development and Environmental Review
1200 New Jersey Ave SE
Washington DC 20590
202 366-2037
gerald.solomon@dot.gov

From: Larry Adams [<mailto:bgradams@roadrunner.com>]
Sent: Wednesday, February 25, 2015 4:13 PM
To: Solomon, Gerald (FHWA)
Cc: Brewer City Council; Brewer City Manager; Councilor Jerry W. Goss; Councilor Kevin O'Connell; Deputy Mayor Beverly Uhlenhake; Mayor Matthew Vachon; Councilor Joseph Ferris; 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

Subject: Fw: NEPA Compliance of I-395/Route 9 Transportation Study

Resent due to addressing error. Sorry for the confusion.

Mr. Solomon

I held off replying to your June 25, 2013 email as I knew there would be an appropriate time in the future to respond and make a request. You are at the highest position in the FHWA to ensure compliance with NEPA. You also stated: "FHWA is committed to full disclosure of any changes that occur during the EIS process and responding to comments received from other agencies and the public." I want to give you that chance and here are my comments:

The I-395/Route 9 Transportation Study FEIS has been issued and we are days from the earliest signing of the Record of Decision (ROD). I retired after 40+ years of federal government service; I am fully aware of how the government works. What you don't know is that after reading thousands of documents, 1,239 of them obtained under a Maine State FOIA request, I probably know more about this project than many of your own people do; I am not looking for answers, I already have them; I seek accountability from your agency as this study is now in FHWA's hands awaiting the ROD.

With all due respect, the Final Environmental Impact Statement is based on a lie; the FEIS-stated cost has been intentionally misrepresented \$32.24 million less than the actual \$93.24 million cost of 2B-2 when designed to freeway criteria. This \$61 fraudulent cost was included in the March 2012 DEIS and carried forward to the FEIS. Cost is the most important piece to this project and I can't remember ever seeing a memo saying that it was okay to intentional misrepresent facts in an official government document.

I must have hit a nerve with my earlier charges that the right of way had already been changed as a special note was added in the FEIS disavowing that as a "brief discussion", I suspect to remain in compliance with NEPA. However, I didn't believe anyone would be so arrogant to leave the falsified \$61 million cost in the FEIS and that was the first thing I looked for when the FEIS was issued last month. That falsified \$61 million cost came from the MaineDOT, whether or not the FHWA is complicit with that falsehood is unknown, but surely since I questioned that lower \$61 million cost in comments to the DEIS (not considered substantive and buried in Appendix A of the FEIS, unanswered), the FHWA should have also questioned it. If the FHWA is complicit in this charade, that only makes this situation even worse; I'd like to think that is not the case and the issues are at the state level only.

Yes, the construction cost has been deliberately falsified in the DEIS/FEIS to further efforts to market 2B-2. It's certainly easier to promote a \$61 million project instead of a \$93.24 million project. These charges are easily proven in the attached FOIA documents, including the intent to downgrade the design criteria "following the conclusion of the NEPA process", yet apply that reduced cost up front in the DEIS, and the actual MaineDOT Memo ordering the cost reduction a month before the DEIS was issued. It is all so easy to understand, but

was it ethical and was it in compliance with NEPA? And why has no one stepped forward to keep these agencies accountable to the public they serve?

Note the transition of the construction costs on page 1 of the attachment:

2B-2's construction cost "designed to freeway criteria" is **\$90 million**, as stated in minutes of the October 11, 2011 Interagency Meeting.

2B-2's construction cost "prepared using the DOT's freeway criteria" is **\$93.24 million**, as stated in a December 06, 2011 Letter from Gannett Fleming to MaineDOT (FOAA #0391/0392).

MaineDOT Chief Engineer (KS) stated "The build alternatives have been designed...using MaineDOT's criteria for freeways...approximately **\$93 million** for Alternative 2B-2." before ordering a one-third cost reduction based on rolling design via MaineDOT Memo dated January 30, 2012 (FOAA #0431).

YET, FEIS-stated-cost is \$61 million based on FEIS-stated "MaineDOT design criteria for freeways". That is a \$32.24 million dollar disparity based on the same freeway criteria.

Note that the design criteria was constant throughout the cost estimates: all freeway design, including the DEIS/FEIS. Again, a \$32.24 million dollar disparity. How can that be?

FOAA #0391 (December 6, 2011) shows the intent to downgrade the design from freeway to rolling following the conclusion of the NEPA process and the intent to include that reduced cost up front in the DEIS and that's what the FEIS-stated \$61 million really represents; not the FEIS-stated "MaineDOT design criteria for freeways."

FOAA #0431 (January 30, 2012) MaineDOT Chief Engineer Memo ordering the one-third cost reduction; one of the basis is rolling design. Again, that is what the FEIS-stated \$61 million represents; not the FEIS-stated "MaineDOT design criteria for freeways."

The FEIS-stated-cost is \$61 million and the FEIS-stated-design is "MaineDOT design criteria for freeways" is a lie. The actual cost of 2B-2 is \$93.24 million as estimated on December 6, 2011 "using the DOT's freeway criteria." It doesn't take much of an imagination to see what is going on here and it was done intentionally. They got the benefits of a much lower cost up front without changing the design criteria to set off the red flags of non-compliance with NEPA.

Take your pick which one is the lie, the cost or the design or "wink-wink", the design is really rolling already and you know that is non-compliant with NEPA. I would expect that intentionally misrepresenting the cost by \$32.24 million is also non-compliant with NEPA. I hope this isn't SOP to intentionally misrepresent critical facts within the DEIS and FEIS as not only was the public kept in the dark, cooperating agencies used the same information to sign-off on this project. I ask you to get to the bottom of this serious matter and also I think it's time to have a real IG investigation on this whole study. This is not the way to start a project costing tens of millions of scarce transportation dollars at a time when we cannot even afford to maintain the roads and bridges we already have. This is not the way MY

government is supposed to act and in fact it is shameful that this charade continues years after I've advised everyone from Washington D.C. to Augusta, Maine of these problems.

In the attachment, you will also find several changes that we are constantly advised have not changed i.e. system linkage need, logical termini and the change from 4-lane/4-lane ROW to 2-lane/2-lane ROW which gave Mr. Hasselmann heartburn in December 2011.

Another issue as addressed in the attachment: the System Linkage Need is time-conditional: "Alternative 2B-2/the Preferred Alternative would further the study's purpose and satisfy the system linkage need in the near term (before 2035)." I guess we're not supposed to be smart enough to figure this out, but since this project will not be completed for several years, the last several years of the 20 year project design-life will not satisfy system linkage needs in the near term or the long term or in fact any term. It is as simple as that; I don't know if this charade is known to the FHWA people in Augusta or not. There is not even 20 years from today until the end of (before 2035), so even before construction 2B-2 does not meet Purpose and Needs for the entire 20 year design life.

The last two pages reveal Mr. Hasselmann's thoughts on 2B-2 in December 2011 as told by the MaineDOT project manager (JL). If Mr. Hasselmann wasn't overruled, we wouldn't be having this conversation. I didn't add these two pages to embarrass Mr. Hasselmann as I believe he was one of the only people during the last few years of this study that actually had our best interest at heart and for some unknown reason, his efforts were thwarted. It really shows how ludicrous this process has become. I think Mr. Hasselmann deserves to tell his story and I would like to know why his superiors overruled him when there were so many obvious deficiencies in the 2B-2 alternative.

I fully expect an immediate change in design to rolling and a reduction in ROW to 100 feet following the ROD, I noticed in your reply that changes would have to be reevaluated under NEPA and FHWA regulations, but isn't that a little too late since FOAA #0391 states exactly the intent to change to the rolling criteria "following the conclusion the NEPA process"? Isn't that intent skirting the NEPA process by unfairly making criteria changes to only one of the 79+ alternatives? How can waiting until NEPA is concluded to change criteria on only 2B-2 be within NEPA compliance?

I have asked my federal delegation of Senator Collins, Senator King and Congressman Poliquin to also look into this matter and I have included them on this email along with the municipal leaders of the City of Brewer, I hope my going rogue doesn't thwart their efforts and I sincerely apologize if that is the case; I don't have the same boundaries of politics and I don't have to pull my punches, this is a serious matter and needs a serious response from the highest levels.

We are extremely frustrated with this process and I turn to you and your position for accountability. The attachments are self-explanatory, but I can elaborate if needed or present clean full size documents.

Unless corrected, the signing of the Record of Decision will validate to the impacted community of Brewer that it doesn't matter that the FEIS-stated cost or the FEIS-stated design criteria is a lie, it doesn't matter that the Purpose and Needs will not be satisfied for

the entire 20 year design life of the project, and the National Environmental Policy Act is just for show as it is all so easy to skirt the regulations by just running out the clock. Yes, I do know how the government works and this is a good example why so many lose faith in the process.

Sincerely,

Larry Adams
17 Woodridge Road
Brewer, ME 04412
207-989-4913

From: Gerald.Solomon@dot.gov
Sent: Tuesday, June 25, 2013 8:51 AM
To: bgradams@roadrunner.com
Cc: MHasselmann@dot.gov
Subject: FW: NEPA Compliance of I-395/Route 9 Transportation Study

Mr. Adams

Thank you for your e-mail dated May 30, 2013 concerning the I-395/Route 9 Transportation Study in Brewer, Holden, Eddington and Clifton, Maine. Over the past weeks, I have been in contact with the Federal Highway Administration (FHWA) Maine Division to discuss your concerns and obtain additional information in connection with the status of this project's environmental review. As you may be aware, the FHWA Division Office is responsible for coordination with the state Department of Transportation and ensuring the environmental review is completed in compliance with NEPA.

I understand that the Environmental Impact Statement (EIS) for this project is still underway. The Final EIS will document decisions made throughout the project development process to reflect the selection of an alternative, modifications to the project, updated information on the affected environment, changes in the assessment of impacts, the selection of mitigation measures, required findings (e.g. wetlands), the results of coordination, comments received on the Draft EIS and responses to these comments. As of this date, no final decisions have been made.

This study, as you point out in your e-mail, has been underway since 2000. Initially undertaken as an Environmental Assessment (EA), the study transitioned to an EIS in October 2005 based on potential impacts.

The purpose and need for the project, as described generally in the Notice of Intent (NOI) (December 2005) and in detail in the Draft EIS, have remained the same - transportation system linkage, safety, and mobility. In addition, the logical termini of the project were identified in the NOI as between I-395 in Brewer and State Route 9 in Clifton. These same termini were used to evaluate the four alternatives studied in the Draft EIS.

Many project alternatives have been developed and screened since December 2000. Over 70 build alternatives were conceptually designed and analyzed using the No-Build alternative as the baseline for impact comparison purposes. Many of these conceptual alternatives were developed based on input given by the project's Public Advisory Committee and the public.

In addition to public involvement, there has been substantial coordination with State and Federal Resource Agencies to analyze and assess the environmental impacts. In particular, the Preferred Alternative, 2B-2, has been preliminarily identified by the U.S. Army Corps of Engineers (USACOE) as the Least Environmentally Damaging Practicable Alternative. The USACOE's determination is critical in order for the project to obtain a Section 404 Clean Water Act permit.

As described in the Draft EIS, four alternatives, including the no-build alternative, were retained for further consideration and analyzed in detail. The build alternatives were studied as a controlled-access highway that facilitates a two-way two-lane roadway within a 200 foot wide right of way. Through this process, however, it was determined that the portion of each build alternative on Route 9 would not need to be improved to a high-speed, controlled-access facility.

I also understand that since publication of the Draft EIS, no changes have been made to the scope of the project, including a reduction to a 100-foot wide right of way. If changes are made during the development of the EIS or after completion of the EIS, these changes will have to be assessed under appropriate National Environmental Policy Act (NEPA) and FHWA procedures.

The FHWA NEPA project development process is an approach to balanced transportation decision-making that takes into account the potential impacts on the human and natural environment and the public's need for safe and efficient transportation. It is an iterative, deliberative, multi-disciplinary decision-making process.

FHWA is committed to full disclosure of any changes that occur during the EIS process and responding to comments received from other agencies and the public.

Should you have additional questions or concerns, I suggest communicating directly with Mark Hasselmann at our Maine Division Office. His email is Mark.Hasselmann@dot.gov.

Thank you.

Gerry Solomon
Director
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