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I-395 / Route 9 Transportation Study : Environmental Impact Statement, September 26, 2011

Maine Department of Transportation

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[Impacts from No-Build and build alternatives to be inserted here]

3.8 Mitigation and Commitments

The following sections describe the mitigation measures and commitments being considered in support of the development of the build alternatives. The mitigation measures would be developed further during preparation of the FEIS / Section 404 permit and its review and final design of the preferred alternative.

3.8.1 Mitigation

Prospective compensatory mitigation opportunities for the unavoidable wetland impacts from the build alternatives were identified within the Penobscot River and neighboring watersheds. The build alternatives are largely on new alignments and no on-site opportunities exist to restore wetlands previously filled by highway construction. Opportunities were identified primarily through the use of existing reports, GIS information, and field data. Initial contacts were made with representatives from the MDIFW, DOC, MDEP, Maine Forest Service, Penobscot River Restoration Trust, The Nature Conservancy, and The Forest Society of Maine to learn about local conservation initiatives that could provide suitable mitigation.

These opportunities were specific restoration sites and broader areas identified as local or regional conservation priorities. The mitigation opportunities below are conceptual and additional information would be prepared.

Felts Brook Parcel – This 120-acre site is located in Brewer and was acquired by the MaineDOT in 1982 as part of the I-395 construction project. The site consists of agricultural fields and wetlands. The mitigation potential consists of enhancement through planting of riparian vegetation, some potential creation opportunities, and preservation.

Lower Penobscot River Stream Barrier Removal – This study was conducted by the Maine Forest Service in cooperation with USFWS and Gulf of Maine Coastal Program. There are 287 crossings (with the majority being culverts) surveyed in the Lower Penobscot drainage that have been identified as aquatic organism barriers primarily due to structural deficiencies. Crossings surveyed consist of a variety of problems: inlet blockages, inlet drops, perched inlets and outlets, shallow water depths, high velocities and lack of natural substrates. The most prevalent problem is perched outlets at 204 crossings. There are numerous opportunities identified in this study to begin the process of passage restoration using mitigation funds from the I-395 / Route 9 Transportation Study.

Penobscot River Restoration Project - This river restoration project is a collaborative effort with PPL Corporation (a hydropower company), the Penobscot Indian Nation, seven conservation groups, and state and federal resource agencies working together to restore 11 species of sea-run fish to the Penobscot River, while maintaining energy production. Successful implementation of the project would revive not only native fisheries but the social, cultural, and economic traditions of New England's second largest river – the Penobscot. The core aspects of the restoration effort consist of the purchase and removal of the two lowermost dams – the Veazie and Great Works – and purchase and decommissioning of a third dam – the Howland – where a fish bypass would be constructed. The Penobscot River Restoration Trust has been raising funds to implement these projects and has funding for the purchase and removal of the Veazie and Great Works dams which could occur over the next two years. The Howland bypass project is seeking funds to implement the fish way in 2016 – 2018. A portion of the mitigation funds from the I-395 / Route 9 Transportation Study could finance a portion of this work.

Sears Island Wetland Bank – This bank site consists of primarily preservation credit with two areas having restoration and creation opportunities. The restoration opportunity would involve a ½-acre fill removal and replanting. The creation opportunity would be a

two-acre forested wetland that would consist of grading, drainage and planting.

Maine Natural Resource Conservation Fund – This is a DEP program that provides permit applicants the option to pay a square-foot price for wetland impacts that exceed regulatory thresholds. This program may be used to augment a compensation package that has inadequate mitigation for loss of specific wetland functions and values.

Lower Penobscot Forest Project - The Lower Penobscot Forest project is a partnership between The Nature Conservancy and the Forest Society of Maine that would conserve over 42,000 acres. This project would be the window to a broader view of conservation in the region—a view that connects the wetlands and woods of Central Maine to the coastal forests and waters of Penobscot and Machias Bays. The streams of the Lower Penobscot Forests drain into Sunhaze Meadows National Wildlife Refuge—founded in the late 1980s when the Conservancy purchased over 10,000 acres of raised dome peat lands to protect them from peat mining. The Conservancy would purchase a conservation easement on more than 12,000 acres along the southeast border of Sunhaze to establish an ecological reserve. The reserve would border MDOC lands and the Lower Penobscot Forest Easement, which would be conserved by an easement purchased by the Conservancy and transferred to the state. To

the south, the remote ponds and red pine woodlands of the Amherst Tract would be conserved by fee and easement purchases by Forest Society of Maine. To the northeast, Lower Penobscot Forest lands neighbor those protected by the State and the Conservancy in the upper Machias River Watershed. The Nature Conservancy is raising public and private funds for this project. Placing these forests under conservation is part of a larger vision of conserved lands stretching from Bangor to Acadia National Park. There are opportunities to assist The Nature Conservancy and the Forest Society of Maine with land acquisition and/or easements.

Holden Conservation Parcels – There are a couple of large privately-held land parcels in Holden that abut the build alternatives and consist of forested uplands and vernal pools. There is potential for some enhancement work with the majority of acreage placed in preservation possibly combined with wildlife passage.

3.8.2 Commitments

The following is a summary of the commitments from the MaineDOT and FHWA in support of the development of the build alternatives:

- If a build alternative is identified as the preferred alternative, it would be a controlled-access facility; motorists would be permitted to enter and

exit from the I-395 in Holden and Route 9 in Eddington.

- During final design of the preferred alternative, the MaineDOT would further analyze opportunities to maintain and restore pre-development hydrology in compliance with Section 438 of the EISA of 2007. The MaineDOT would further consider green infrastructure and low impact development practices such as reducing impervious surfaces, using vegetated swales and revegetation, protection and restoration of riparian corridors, and using porous pavements.
- The highway drainage system would be designed in accordance with the MaineDEP/MaineDOT Memorandum of Agreement, Stormwater Management, May 30, 2003.
- Erosion and sedimentation control measures would be developed and incorporated into the final design of the preferred alternative and implemented during construction, in accordance with section II of MaineDOT's Best Management Practices Manual for Erosion and Sedimentation Control (MaineDOT, 2008a).
- During final design of the preferred alternative, MaineDOT would further evaluate opportunities to shorten the length of stream enclosures and preserve the natural stream bottoms in the enclosures. Stream enclosures would be

designed in accordance with the MaineDOT Waterway and Wildlife Crossing Policy and Design Guide (MaineDOT, 2008e).

- During final design of the preferred alternative, MaineDOT would further evaluate opportunities to construct wildlife passage structures. Wildlife passages would be designed in accordance with the MaineDOT Waterway and Wildlife Crossing Policy and Design Guide (MaineDOT, 2008e).
- During final design of the preferred alternative, MaineDOT would work to further avoid and minimize the impacts to streams, wetlands, dispersal habitat for vernal pools, and floodplains. Further minimization the impact to streams, wetlands, and floodplains would occur through minor shifts in the alignment of the preferred alternative and increasing the slope of fill material; increasing the slope of fill material could reduce the amount of fill material placed in wetlands and floodplains. Hydraulic analysis to size the culverts would be performed during final design.
- The MaineDOT would offer fair market value for the property to be acquired. If a land owner believes the offer for his or her property is unfair, an appeals process exists to resolve difference in beliefs of the value of the property. Relocation

assistance would be provided by MaineDOT and would include reimbursements of reasonable moving costs and settlement fees.

- The MaineDOT is committed to improving the intersection of Route 9 and Route 46. The improvements to this intersection could be accomplished within the existing rights-of-way of Route 9 and Route 46 with no impact to the natural and social features adjacent to the intersection. Given the future need and the limited scope of the improvements to the intersection, no timeframe has been established for these intersection improvements.
- The MaineDOT is committed to further improving the most heavily congested section of Route 1A in the study area to the south of the I-395 interchange with Route 1A. These improvements could be accomplished within the existing right-of-way of Route 1A. Given the future need for the improvements to Route 1A, no timeframe has been established.
- The MaineDOT would work with the Town of Eddington to maintain the safety and preserve the capacity of Route 9 in the study area. The range of possible activities that could be considered to maintain the safety and preserve the capacity of Route 9, in accordance with Maine's rules governing access management,

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are working with the Town of Eddington to change zoning, eliminate existing and minimize future curb cuts, and working with individual landowners to acquire property or development rights.