

Appendix A Record of Decision ACTS Tier 1 FEIS




U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: Request for Approval: Aroostook County
Transportation Study Tier 1 Record of
Decision

Date: February 1, 2010

From: Mark Hasselmann 
Manager, ROW & Environment
Augusta, Maine

In Reply Refer To:
HDA-ME

To: Jonathan McDade
Division Administrator, Maine Division
Augusta, Maine

Jonathan,

Attached is the Record of Decision (ROD) for the Aroostook County Transportation Study Tier 1 Environmental Impact Statement, FEIS-ME-02-1-F. This Tier 1 ROD captures the tiered NEPA process used from the beginning of this study with the September 1999 Federal Register Notice of Intent to prepare an Environmental Impact Statement, publication of the Draft Environmental Impact Statement in February 2002, a Supplemental Draft Environmental Impact Statement in June 2006, the Final Environmental Impact Statement in December 2009, through the preparation of the attached ROD.

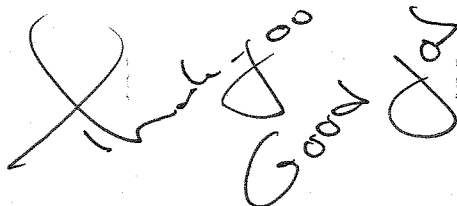
All comments received on the DEIS and SDEIS were addressed in the SDEIS and FEIS respectively. The FEIS was determined legally sufficient November 24, 2009, and approved by this office November 25, 2009. The Federal Register Notice of Availability was published December 24, 2009, and expired January 25, 2010. Comments received on the FEIS are addressed in the ROD and the comment letters are attached. An errata sheet is also included in the ROD.

My predecessor and I worked closely with MainesDOT and their project consultants throughout this study. Ken Dymond of the Office of Chief Council found the FEIS legally sufficient on November 24, 2009 prior to your approval. EPA stated "EPA has no objections to the Caribou Connector as proposed." FHWA and Maine DOT identified Segments 4 and 7 as the Tier 1 Segments that are environmentally preferable.

I recommend you approve this Record of Decision for the Tier 1 Aroostook County Transportation Study and select Segments 4 and 7 for further Tier 2 NEPA analysis.

Attachment:




Good Day

**Record of Decision
Federal Highway Administration
Maine Division**

**FHWA-ME-EIS-02-1-F
Tier 1 – Aroostook County Transportation Study**

Introduction

Since fiscal year 1998 the United States Congress has appropriated a total of \$50,408,710 in Congressionally designated funding for studies and planning for the extension of Interstate 95 (I-95) in Aroostook County, Maine also known as “*Aroostook County North-South Highways, Maine*”. The funds designated for Aroostook County Transportation Study (ACTS) include the identification of improvements to the transportation network to enhance regional economic opportunities, as well as forwarding study recommendations and alternatives to construction. The upgrade of a section of Conant Road common to all ACTS corridors was funded with a portion of these Congressionally designated funds. Congressionally designated funding was appropriated from the following sources:

Aroostook North South Highway Congressionally designated funding

Fiscal Year	Program	Allocation
1998-2003	TEA-21 – High Priority Projects Funding– “ <i>Studies and Planning for extension of I-95</i> ”	\$4,228,536
FY 2002 to FY 2005	Annual Appropriations Bills “ <i>Aroostook County North-South Highways, Maine</i> ”	\$13,180,174
FY 2006 to FY 2009	SAFETEA-LU – <i>Plan and construct North-South Aroostook Highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements</i> ”	
	High Priority Project Funds	\$28,000,000
	Transportation Improvements	\$5,000,000
	Total Congressionally Designated Funding	\$50,408,710

The Federal Highway Administration (FHWA), in coordination with the Maine Department of Transportation (MaineDOT) undertook the Aroostook County Transportation Study (ACTS) in a “phased” or “tiered” approach. To date approximately \$9,850,000 of the Congressionally designated funds have been expended.

This Record of Decision (ROD) describes the Tier 1 decision of FHWA in coordination with the MaineDOT. Tiering is a staged approach to the National Environmental Policy Act of 1969 (NEPA; 42 USC Sections 4321-4351) process described in the Council on Environmental Quality’s (CEQ’s) *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* (40 CFR 1500-1508) and in FHWA’s *Environmental Impact and Related Procedures* (23 CFR 771). Tiering addresses broad programs and issues in an initial (Tier 1) or systems level analysis, and

analyzes site-specific proposals and impacts in subsequent (Tier 2) studies. The tiering process supports decision-making on issues that are ripe for decision and provides a means to preserve those decisions, while deferring decisions on other issues until those issues are ripe.

This Tier 1 ROD completes a thorough and careful environmental decision-making process including the FHWA's public disclosure and the FHWA decision-maker's review of the analysis of impacts of Tier 1-level issues provided in the *Aroostook County Transportation Study Environmental Impact Statement* (Draft Environmental Impact Statement [DEIS; February 2002], Supplemental Draft Environmental Impact Statement [SDEIS; June 2006] and Final Environmental Impact Statement [FEIS; December 2009]). This ROD has been prepared and issued in compliance with NEPA and the regulations cited above. The ROD is also used to demonstrate and document FHWA's compliance with the procedural and substantive requirements of environmental and related statutes and regulations that apply to FHWA Tier 1-level decisions and actions on proposed highway construction projects.

FHWA will issue a future "statute of limitations" notice in the Federal Register, pursuant to 23 U.S.C. 139(I)(1), indicating that one or more agencies have taken final action for this transportation project. These Tier 1 decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for the highway project. Tier 1 decisions also may be relied upon by state and local agencies in proceedings on the proposed project.

Decision

Tier 1 decision - Segment 4 and Segment 7 of the FEIS are selected as the environmentally preferred alternatives carried forward for Tier 2 NEPA analyses. Segments 2, 4, and 7 were identified in the SDEIS as the Proposed Action. Segment 4, Alignment Option 4B the Route 1-161 Connector in Caribou is separately described in the FEIS as a Tier 2 project. A Tier 2 FEIS for Segment 7, Presque Isle Bypass is in preparation. FHWA and MaineDOT subsequently identified Segment 2, Route 161 improvements, as a stand-alone project and elements of Segment 2 are currently under construction under their own NEPA decision document.

At the Tier 1 level, FHWA and MaineDOT developed and analyzed numerous north-south corridors connecting Interstate 95 (I-95) to the Saint John Valley. The Tier 1 study identified four refined north-south corridors for further study and analysis. An overall preferred corridor is not identified. As described in the SDEIS and the FEIS, the four corridors Composite Corridor 1 modified, Composite Corridor 2 modified, Hm, and Corridor 3 (C1m, C2m, Hm, and C3) were divided into 11 segments that represent potential second phase or Tier 2 projects. In compliance with FHWA's segmentation criteria (23 CFR 771.111(f)), each segment has logical termini, independent utility, and does not restrict consideration of alternatives for other segments. Each segment was developed such that it could be funded and constructed within a reasonable timeframe as funding becomes available.

The FEIS was determined legally sufficient and approved by FHWA on November 25, 2009 and the FEIS Notice of Availability was published in the Federal Register December 24, 2009 with an expiration date of January 25, 2010. This Tier 1 ROD documents the analysis of the four corridors, the deferral of identification of an overall preferred corridor, and selection of Segments 4 and 7 as the Proposed Action.

FHWA has based its decision on the:

- Economic and Transportation needs of the Study Area;
- The results of the DEIS, SDEIS, and FEIS;
- Interagency coordination and agency comments;
- Public comments received on the DEIS, SDEIS, and FEIS; and
- Other information received throughout the process and contained in the administrative record.

Purpose and Need

In 1999, FHWA and MaineDOT undertook the ACTS pursuant to NEPA and the Maine Sensible Transportation Policy Act (STPA) with a Federal Register Notice of Intent to prepare an Environmental Impact Statement published in September 1999 (Federal Register, Volume 64, Number 180, Friday, September 17, 1999, Page 50549.) The purpose of the ACTS is to evaluate transportation alternatives that would improve the region's economy by improving transportation mobility. Specific elements of the need for transportation improvements include:

- Aroostook County suffers from a long-term loss of population;
- The unemployment rate in the Study Area has been chronically higher than the state average;
- The rate of job growth has been chronically below the state average;
- There has been a lack of diverse job opportunities that would retain and attract workers; and
- There is a need to improve transportation access to, from, and within Aroostook County and the surrounding provinces to improve access to jobs, reduce long distances and travel times for goods to market, and address issues of transportation system continuity.

Corridor Alternatives Considered

The DEIS analyzed four north-south highway corridors that span the length of the Study Area from I-95 to the St. John Valley. The screening process that led to the identification of these four corridors initially identified and evaluated more than 40 corridors. This process resulted in 13 corridors that were examined in the Preliminary Screening stage, and five of those corridors were carried forward to the Intermediate Screening stage. A parallel, Regional Screening process evaluated 11 options within those five corridors. The Regional Screening process resulted in the identification of two Composite Corridors (C1 and C2) for detailed evaluation in the DEIS. Following the Regional Screening, the five corridors from the Intermediate Screening process were re-evaluated. Two of these corridors (Hm and Km) were modified and also carried forward for detailed evaluation in the DEIS. In summary, four corridors were analyzed in the DEIS: Composite Corridor 1 (C1), Composite Corridor 2 (C2), Corridor Hm, and Corridor Km.

Based upon the findings from the DEIS analysis and the comments that were received, MaineDOT undertook supplemental studies that led them to make modifications to three of the DEIS corridors. Corridor Km was dismissed from further consideration, and a different fourth corridor was added. These corridors Composite Corridor 1 modified, Composite Corridor 2 modified, Hm, and Corridor 3 (C1m, C2m, Hm, and C3) were evaluated in the SDEIS; the No-Action Alternative was also considered. The four corridors were incorporated unchanged in the FEIS. The No-Action Alternative and the four corridors evaluated in the SDEIS and FEIS are summarized below, with a subsequent discussion of the 11 corridor segments.

The FEIS identifies a “Proposed Action” that consists of two of the 11 segments, Segment 4 and Segment 7. The FEIS also presents Tier 2, alignment-specific information for Segment 4, the Route 1-161 Connector, Caribou. MaineDOT intends to advance Segment 4 forward into final design and permitting upon approval of the Tier 2 ROD. FHWA and MaineDOT intend to file a Tier 2 FEIS for Segment 7, the Presque Isle Bypass, in the near future. Finally, MaineDOT has developed Corridor Management Plans (CMPs) for two segments of Route 1 to help ensure that the highway will continue to adequately serve existing and future transportation needs.

FHWA and MaineDOT selected the above usable buildable segments common to all corridors for advancement to Tier 2. Because decision-making regarding the selection of a Preferred Corridor and the segments that comprise it is being deferred until funds or need are identified, the FEIS presents less detailed information on these Tier 1 Deferred Segments. When MaineDOT reconsiders these segments, either individually or as part of an overall corridor, they will require additional NEPA review.

FHWA and MaineDOT are deferring the selection of an overall Preferred Corridor for several reasons. The economic and transportation analyses done on the overall corridors found very little difference among them. The overall corridors would provide similar transportation benefits and have similar economic impacts on Aroostook County. Therefore, the discerning factors among the corridors became their environmental impacts and their cost. Given, however, that the majority of the corridors (regardless of which might be selected) would likely not be constructed for many years, the costs and environmental considerations that would guide the selection of a corridor today are very likely to change, potentially making a decision now inappropriate by the time construction is ready to proceed.

No-Action Alternative

The No-Action Alternative serves as a baseline to which other alternatives can be compared. The No-Action Alternative is defined as continuing MaineDOT’s ongoing construction program with no additional extraordinary projects. MaineDOT’s *Multimodal Six-Year Transportation Capital Improvement Plan, State Fiscal Years 2010-2015* lists the potential projects planned for construction during that period. It includes both highway reconstruction and highway bridge maintenance projects. This program of potential improvements would be carried out regardless of whether or not a separate construction project arises from the FEIS.

The No-Action Alternative would not satisfy the ACTS Purpose and Need, as it would not improve mobility and north-south access to activity centers; would not provide travel time savings; would not improve safety; and would not improve functional conflicts in town centers.

Composite Corridor C1 Modified (C1m)

Corridor C1m consists of the following:

- A 35.1-mile, 4-lane upgrade of Route 1 and new highway bypasses beginning at I-95, Exit 302, in Houlton and extending north to the Westfield/Presque Isle town line. New 4-lane highways would bypass the town centers of Monticello (2.7 miles), Bridgewater (2.5 miles) and Mars Hill (5.2 miles).

- A 10.0-mile segment of new 4-lane highway leaving Route 1 in Presque Isle, extending north and bypassing downtown Presque Isle to the east, and reconnecting with Route 1 approximately 1.5 miles north of the Aroostook River in Presque Isle.
- A 9.4-mile, 4-lane upgrade of Route 1 beginning in Presque Isle approximately 1.5 miles north of the Aroostook River and extending north to the Route 1/Bennett Drive/Route 89 intersection north of downtown Caribou.
- A 5.5-mile segment of new 4-lane, east-west highway beginning at the Route 1/Bennett Drive/Route 89 intersection and extending north around (*i.e.*, northeast of) the Cary Medical Center, crossing Route 1 near Ouellette Road, and then extending east to intersect with Route 161 near Ogren Road. (Route 1-161 Connector, Caribou)
- An approximately 25.9-mile 2-lane upgrade (with climbing lanes) of Route 161 between Caribou and Cross Lake Township.
- A 14.5-mile, new 2-lane (with climbing lanes) or 4-lane highway, connecting Route 161 in Cross Lake Township with Route 1 in Madawaska, at the Route 1/Fournier Road intersection (approximately 3.2 miles east of the International Bridge in downtown Madawaska).

The total length of Corridor C1m would be approximately 100.4 miles (40.4 miles of new location highway and 60 miles of upgrade).

Corridor C1m would satisfy the ACTS Purpose and Need by improving mobility and north-south access to activity centers in the Study Area; providing travel time savings; improving safety; and improving functional conflicts in town centers.

Composite Corridor C2 Modified (C2m)

Corridor C2m consists of the following:

- A 39.1-mile segment of new 4-lane highway between I-95, Exit 286 in Oakfield and Route 1 in Presque Isle, immediately north of the Westfield town line.
- A 10.0-mile segment of new 4-lane highway leaving Route 1 in Presque Isle, extending north and bypassing downtown Presque Isle to the east, and reconnecting with Route 1 approximately 1.5 miles north of the Aroostook River in Presque Isle.
- A 9.4-mile, 4-lane upgrade of Route 1 beginning in Presque Isle approximately 1.5 miles north of the Aroostook River and extending north to the Route 1/Bennett Drive/Route 89 intersection north of downtown Caribou.
- A 5.5-mile segment of new 4-lane, east-west highway beginning at the Route 1/Bennett Drive/Route 89 intersection and extending north around (*i.e.*, northeast of) the Cary Medical Center, crossing Route 1 near Ouellette Road, and then extending east to intersect with Route 161 near Ogren Road. (Route 1-161 Connector, Caribou)
- An approximately 25.9-mile, 2-lane upgrade (with climbing lanes) of Route 161 between Caribou and Cross Lake Township.
- A 14.5-mile, new 2-lane (with climbing lanes) or 4-lane highway connecting Route 161 in Cross Lake Township with Route 1 in Madawaska, at the Route 1/Fournier Road intersection (approximately 3.2 miles east of the International Bridge in downtown Madawaska).

The total length of Corridor C2m would be approximately 104.4 miles (69.1 miles of new location highway and 35.3 miles of upgrade).

Corridor C2m would satisfy the ACTS Purpose and Need by improving mobility and north-south access to activity centers in the Study Area; providing travel time savings; improving safety; and improving functional conflicts in town centers.

Corridor Hm

Corridor Hm consists of the following:

- A 39.1-mile segment of new 4-lane highway between I-95, Exit 286 in Oakfield and Route 1 in Presque Isle, immediately north of the Westfield town line.
- A 10.0-mile segment of new 4-lane highway leaving Route 1 in Presque Isle, extending north and bypassing downtown Presque Isle to the east, and reconnecting with Route 1 approximately 1.5 miles north of the Aroostook River in Presque Isle.
- A 9.4-mile, 4-lane upgrade of Route 1 beginning in Presque Isle approximately 1.5 miles north of the Aroostook River and extending north to the Route 1/Bennett Drive/Route 89 intersection north of downtown Caribou.
- A 5.5-mile segment of new 4-lane, east-west highway beginning at the Route 1/Bennett Drive/Route 89 intersection and extending north around (*i.e.*, northeast of) the Cary Medical Center, crossing Route 1 near Ouellette Road, and then extending east to intersect with Route 161 near Ogren Road. (Route 1-161 Connector, Caribou)
- A 33.5-mile segment of new 2-lane (with climbing lanes) or 4-lane highway from the 5.5 mile segment described immediately about to Route 1 east of Madawaska.

The total length of Corridor Hm is approximately 97.5 miles (88.1 miles of new location highway and 9.4 miles of upgrade).

Corridor Hm would satisfy the ACTS Purpose and Need by improving mobility and north-south access to activity centers in the Study Area; providing travel time savings; improving safety; and improving functional conflicts in town centers.

Corridor C3

Corridor C3 consists of the following:

- A 35.1-mile, 4-lane upgrade of Route 1 and new highway bypasses beginning at I-95, Exit 302 in Houlton and extending north to the Westfield/Presque Isle town line. New 4-lane highways would bypass the town centers of Monticello (2.7 miles), Bridgewater (2.5 miles) and Mars Hill (5.2 miles).
- A 10.0-mile segment of new 4-lane highway leaving Route 1 in Presque Isle, extending north and bypassing downtown Presque Isle to the east, and reconnecting with Route 1 approximately 1.5 miles north of the Aroostook River in Presque Isle.
- A 9.4-mile, 4-lane upgrade of Route 1 beginning in Presque Isle approximately 1.5 miles north of the Aroostook River and extending to the Route 1/Bennett Drive/Route 89 intersection north of downtown Caribou.
- A 5.5-mile segment of new 4-lane, east-west highway beginning at the Route 1/Bennett Drive/Route 89 intersection and extending north around (*i.e.*, northeast of) the Cary Medical

Center, crossing Route 1 near Ouellette Road, and then extending east to intersect with Route 161 near Ogren Road. (Route 1-161 Connector, Caribou)

- A 33.5-mile segment of new 2-lane (with climbing lanes) or 4-lane highway extending, from the 5.5 mile segment described immediately above, to Route 1 east of Madawaska.

This corridor consists of segments of other corridors in a new combination. Corridor C3 comprises of the southern portion of Corridor C1m between I-95 and Caribou, and the northern portion of Corridor Hm between Caribou and Madawaska. The total length of Corridor C3 would be approximately 93.5 miles (49 miles of new location highway and 44.5 miles of upgrade).

Corridor C3 would satisfy the ACTS Purpose and Need by improving mobility and north-south access to activity centers in the Study Area; providing travel time savings; improving safety; and improving functional conflicts in town centers.

Corridor Segments

As mentioned above, MaineDOT has divided the four corridors into 11 segments that represent potential second phase or Tier 2 projects. The 11 corridor segments have been identified such that they could be advanced to construction within reasonable timeframes as funding becomes available. The segments have also been developed so that they will be in conformance with FHWA's NEPA regulations concerning the segmentation of projects (23 CFR 771.111(f)). These criteria are intended to ensure that transportation improvement alternatives are given meaningful evaluation and to avoid commitments being made to them before they have been fully evaluated. Each segment has logical termini, independent utility, and does not restrict consideration of alternatives for other future alternatives. No segment alone, however, fully satisfies the ACTS Purpose and Need.

Table 1 provides brief descriptions of the segments, listed from north to south.

Table 1 Description of Segments

Segment ¹	End Points	Approximate Length (mi) ²	Proposed Number of Lanes	Part of Corridors	Description
1	Route 1 Madawaska to Route 161 Cross Lake Township (aka the St. John Valley Connector)	14.5	2 with climbing lanes or 4 lanes	C1m, C2m	New location highway
2	Route 161 Cross Lake Township to Route 161 Caribou	25.9	2 with climbing lanes	C1m, C2m	Upgrade of Route 161
3	Route 1 Madawaska to Segment 4 Caribou	33.5	2 with climbing lanes or 4 lanes	Hm, C3	New location highway
4	Route 161 Caribou to Route 1 Caribou (the Route 1-161 Connector)	4.3	2 lanes ³	C1m, C2m, Hm, C3	3.7 miles of new highway between Route 161 and Route 1; and 0.58 miles of upgrade on Route 1 between Route 89 and High Street

5	Route 1 Caribou/Route 89 to Route 1 Caribou at Route 164	3.2	4 lanes	C1m, C2m, Hm, C3	3.2-mile upgrade of Route 1 between High Street and Route 164.
6	Route 1 at Route 164 in Caribou to Route 1 in Presque Isle	6.2	4 lanes	C1m, C2m, Hm, C3	Upgrade of Route 1.
7	Route 1 Presque Isle north of the Aroostook River to Route 1 near the Presque Isle/Westfield town line (The Presque Isle Bypass)	10.0	2 lanes ³	C1m, C2m, Hm, C3	New location corridor (one alignment option would include an upgrade of Centerline Road).
8	Route 1 Presque Isle to Route 1 Blaine (the Mars Hill Bypass)	9.7	2 with climbing lanes or 4 lanes	C1m, C3	New location (5.2 miles) bypass corridor and 4.5-mile upgrade of Route 1
9	Route 1 Presque Isle to I-95 Oakfield at Exit 286	39.1	4 lanes	C2m, Hm	New location corridor
10	Route 1 Blaine to Houlton	24.6	2 with climbing lanes or 4 lanes	C1m, C3	19.4-mile upgrade of Route 1 with 2.5-mile bypass of Bridgewater and 2.7-mile bypass of Monticello
11	Route 1 Houlton to Route 1 Houlton at I-95	0.8	2 with climbing lanes or 4 lanes	C1m, C3	Upgrades and access management improvements along Route 1

1 Segments and endpoints are listed from north to south.

2 Segment lengths are approximate. The exact lengths will depend on the final alignment option selected for each segment.

3 MaineDOT would initially construct Segments 4 and 7 as two-lane highways but would purchase sufficient right-of-way (300-foot wide) to allow for the expansion of these segments to 4-lane facilities, if future conditions warrant.

Table 2 lists in matrix format which segments are part of each of the four corridors.

Table 2 Corridors and Segments

Corridors	Length (miles)	Segments										
		1	2	3	4	5	6	7	8	9	10	11
C1m	100	X	X		X	X	X	X	X		X	X
C2m	104	X	X		X	X	X	X		X		
Hm	98			X	X	X	X	X		X		
C3	94			X	X	X	X	X	X		X	X

Proposed Action

Based upon the transportation, economic, and environmental analyses, MaineDOT has advanced a Proposed Action consisting of two segments (4 and 7) that have independent utility and which will partially satisfy the Purpose and Need of the ACTS. Construction of these two segments will not completely satisfy the ACTS Purpose and Need because they do not address some elements of the ACTS Purpose and Need. For example, construction of these two segments will not improve traffic

flow through Houlton or Mars Hill or improve safety at high crash locations outside of Caribou or Presque Isle. The Proposed Action consists of:

- Segment 4 – an approximately 4.3-mile new connection between the Route 1/ High Street intersection and Route 161 in Caribou.
- Segment 7 – a new 10-mile long bypass east of downtown Presque Isle.

Segments 4, 5, 6, and 7 are common to all corridors. The FEIS includes a Tier 2 evaluation of Segment 4, and a Tier 2 FEIS for Segment 7 is forthcoming. Segment 2 was identified as a stand alone project and is currently under construction. Decisions have been deferred on all other segments. Note, however, that Segments 5 and 6 are partially addressed by the Corridor Management Plans (CMPs) described below.

Corridor Management Plans

FHWA and MaineDOT developed CMPs for two sections of Route 1:

- From the intersection of Route 164 in Presque Isle north approximately 12 miles to Route 89 in Caribou (comprising all of Segments 6 and 5); and
- From Route 89 in Caribou to Route 1A in Van Buren, a distance of 21 miles.

The CMPs partially satisfy the ACTS Purpose and Need by providing the tools to improve mobility and safety. Implementation of the CMPs by the communities will help to ensure that the Route 1 corridor will continue to adequately serve existing and future needs. They include recommendations designed to preserve the existing capacity of the highway and enable it to be widened in the future with minimal disruption to adjacent uses. Examples of the recommendations in the CMPs include intersection improvements, safety upgrades, and hill climbing lanes for trucks.

The CMPs are planning documents. Two hundred thousand dollars of the Congressionally designated funds were disbursed to update, refine, finalize and implement the Aroostook County Transportation Study – Route 1 Presque Isle to Caribou Corridor Management Plan. If these actions constitute a federal action then additional NEPA evaluation is required prior to implementing CMP strategies.

Summary of Environmental Impacts and Commitments

Although an overall preferred corridor has not been identified, this section briefly compares the potential environmental impacts of the four corridors. The impacts of the overall corridors are based on the Tier 1 Preferred Alignment Option for each of the 11 segments, as explained in the FEIS. Given that conditions are likely to change over time, particularly in terms of the built environment, the alignment(s) and impacts identified in future Tier 1 and possibly Tier 2 studies may vary from those analyzed in the Tier 1 FEIS.

Tables 2-4 through 2-8 in the FEIS summarize the potential environmental impacts from the Preferred Alignment Options for four corridors, based upon the analysis provided in the *SDEIS Environmental Technical Report* (August 2005).

Detailed evaluations of environmental impacts will be conducted during future Tier 1 and Tier 2 evaluations of each corridor or segment, as appropriate, and practicable measures to minimize or mitigate environmental harm will be developed and incorporated at that point. A monitoring program will be developed in each Tier 2 analysis, if necessary.

Overall, Corridor C1m would have the least amount of new location highway, and would primarily use existing highway alignments except for Segment 1, from Route 161 to Madawaska. Corridor C1m would have the greatest impacts to the built environment, including the highest impacts to active farmland and historic properties, and the second highest impact to buildings. Corridor Hm would have the largest amount of new location highway, the greatest impact to land and forest, and the second highest impact to wetlands and wildlife habitat. Impacts from C2m would be only slightly less than the Hm impacts. Corridors C1m and C3 would have comparable impacts and would be intermediate between Corridor C2m and Corridor Hm.

Interagency Coordination and Public Involvement

Chapter 7 of the FEIS summarizes the interagency coordination and consultation effort. The FHWA and MaineDOT solicited the input of other state and Federal agencies through interagency meetings and correspondence. The ACTS team coordinated with these Federal and state agencies during the preparation of the FEIS to obtain information on environmental conditions, review potential impacts, and obtain agency input.

The team also presented information on the progress of the ACTS at numerous Interagency Coordination Meetings held since study initiation in 1998. These meetings were attended by representatives of the US Fish & Wildlife Service, US Army Corps of Engineers, US Environmental Protection Agency, National Marine Fisheries Service, Maine Department of Environmental Protection, Maine Department of Inland Fisheries and Wildlife, and Maine Historic Preservation Commission.

An early and continuous public involvement program included the citizens and residents of the Study Area and sought their input on study objectives, impacts, and corridor evaluation. A Transportation Symposium was held on April 17, 1999 to introduce the ACTS to the public. The Notice of Intent to prepare an EIS was published in the Federal Register on September 17, 1999, and a series of three public scoping meetings were held in Frenchville, Houlton, and Presque Isle that week. Additional public information meetings were held in those communities in October 2000.

Citizen involvement included a Public Advisory Committee (PAC), public informational workshops, meetings, a newsletter, articles in the Northern Maine Development Commission quarterly newsletter, and an ACTS Internet site. The PAC is a 20-member group convened to represent all areas of the Study Area, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs, and economic interests within the Study Area. The PAC met on 18 occasions between July 1999 and November 2001 before publication of the DEIS in 2002, and once in 2003, four times in 2004, once each in 2005, 2006, and 2007, after the publication of the SDEIS in 2006. The Internet web site established for the study (www.vhb.com/aroostook) includes study information, announcements of PAC meetings, summaries of previous PAC meetings, newsletters, links to related news articles, and maps of the study corridors. The site also has a "Feedback" page that allows users to email comments and questions to the study coordinators. The site can also be accessed through

MaineDOT's Internet site (www.maine.gov/mdot/major-planning-studies/major-planning-stds.php). The FEIS is available on the website. The FEIS was also distributed to all Federal, State and local agencies and private organizations, and members of the public who provided substantive comments on the SDEIS or who requested a copy.

Public hearings on the DEIS were held in Frenchville, Houlton, and Presque Isle in March 2002. Public hearings on the SDEIS were held in Caribou, Frenchville, and Houlton in August 2006. Attendees included state and local agencies, community organizations, and members of the public. Verbal and written comments were submitted to the MaineDOT at the hearings and written comments were accepted after the hearings. Chapter 6 of the FEIS provides responses to the comments received concerning the SDEIS; written comment letters and transcripts of the public hearing are provided in Appendix B of the FEIS.

All acquisition and relocation for the project shall be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (The Uniform Act). Relocation resources are available to all residential and business relocatees without discrimination.

The ACTS Presque Isle Bypass, Segment 7, is listed in the Statewide Transportation Improvement Program Federal Fiscal 2006 for preliminary engineering. The Route 1-161 Connector, Caribou, Tier 2 project is listed in the Statewide Transportation Improvement Program Federal Fiscal Years 2010-2011-2012-2013 Revised, as approved on September 30, 2009 for final design, ROW acquisition, construction and construction engineering.

Responses to Comments on the FEIS

The Notice of Availability of the FEIS was published in the Federal Register on December 24, 2009. Copies of the FEIS were made available at the town halls and public libraries within the Study Area, and were distributed to persons and agencies who had commented on the DEIS and SDEIS. A list of the agencies, organizations, and individuals to whom copies of the FEIS were sent is provided in Chapter 9 of the FEIS. Comments on the FEIS were accepted until January 25, 2010.

Three substantive comment letters were received on the FEIS. A summary of these comments, and responses to them, follows. Comment letters are provided in Appendix A.

The U.S. Environmental Protection Agency (EPA), Region 1, submitted a comment letter on January 25, 2010. The EPA had three substantive comments, to which we respond below.

Comment - Transportation Systems Management/Transportation Demand Management (TSM/TDM). In addition to the reduction of environmental impacts of the Caribou Connector since it was first presented to the federal agencies for review, EPA also appreciates the MaineDOT commitment to "continue to consider TSM and TDM measures in combination with the Preferred Alternative to benefit the transportation system in Caribou." We continue to support this approach and believe specifics regarding the scope of this commitment should be provided in the Record of Decision".

Response – NMDC has identified its regional transportation needs for policy and planning initiatives and capital investments and suggested potential strategies to provide a multimodal transportation network in Northern Maine. Initiatives that have been implemented or identified for TDM investments in Aroostook County include:

- Daily bus service to/from the St. John Valley in Northern Aroostook County Maine to the City of Bangor. The bus service includes stops in Madawaska, Van Buren and Fort Kent. (Service initiated November 15, 2008)
- MaineDOT in collaboration with *Go Maine* provides daily commuter bus service from Presque Isle to the Loring Commerce Center, Department of Defense-Defense Finance and Accounting Service Center. *Go Maine* also provides six minivans for vanpooling in the Presque Isle and Caribou area. This commuter opportunity was initiated approximately 1 1/2 years ago. *Go Maine* is Maine's statewide commuter service providing access to healthy, economical, and eco-friendly options for commuting to and from work, besides simply driving alone.
- MaineDOT has fostered increased walking and biking opportunities in Maine communities by funding bicycle and pedestrian stand-alone facilities as well as accompaniments to highway and bridge projects. MaineDOT has provided funding for sidewalk improvements in Caribou, Presque Isle, and Fort Fairfield and a bicycle/pedestrian bridge in Caribou.
- Aroostook Regional Transportation System, Inc. (ARTS) is a private, non-private agency that provides demand response or "door-to-door." ARTS is non-emergency public transportation in Aroostook County, Danforth in Washington County, and the Patten area in Penobscot County. The service area is 6,600 square miles with a population of 74,225 (2000 Census). Service is provided to low income, elderly, disabled residents as well as the general public. Funding for operations comes from agreements with MaineDOT, DHHS, MaineCare and contracts with local agencies. Transportation is available Monday through Friday. Transportation trips in FY 2007 were 168,532. In FY 2008, it went to 219,059. In FY2009, it is expected to be 251,016. This would represent over 10% increase from the previous year.

TSM strategies, such as intersection improvements and lane configurations, could improve traffic flow and pedestrian safety at some locations in Caribou, particularly in the Caribou downtown area where Routes 161, 164, 89 and 228 intersect. The City of Caribou has adopted the results and recommendations identified in the March 2008 *Caribou Downtown District Plan*; the Downtown District is defined by the Downtown TIF District boundaries. These recommendations are based on an assessment of the downtown revitalization needs and opportunities, and establish priorities for public investment within the District. The components of the Downtown Plan include public streetscape improvements, pedestrian safety and amenities, roadway improvements, downtown gateways, signage/wayfinding, downtown promotion and economic development, public-private opportunities including a façade improvement program, and the further development and expansion of the Downtown TIF program.

Comment - Managing Road Salt - We recommend that the Record of Decision describe how the project will comply with applicable Maine water quality criteria for chloride, sodium and existing antidegradation statutes for surface water quality, or with national secondary drinking water standards. Ongoing investigations of highways in the New England region since the publication of the SDEIS have shown that water quality issues associated with new or expanded roadways can be

challenging in those cases where roadway discharges will reach impaired water bodies. We continue to urge FHWA and MaineDOT to fully address these issues and offer our technical assistance to help with that effort.

Response - This is a state-wide issue and requires substantial coordination between MaineDOT, FHWA and EPA to develop a strategy for state-wide anti-icing that protects sensitive waters while maintaining public safety. MaineDOT has collaborated with the Margaret Chase Smith Policy Center, The University of Maine to prepare the *Maine Winter Roads: Salt, Safety, the Environment and Costs*, Draft 16 November 2009. Key findings include:

- Nineteen percent of the State of Maine's public roads are maintained by MaineDOT, one percent by the Maine Turnpike Authority and 80% maintained by Maine communities.
- Anti-icing (preventing the bond of snow and ice to the road surface) is being widely adopted by state agencies across the U.S., with a variety of materials used.
- In *winter months* between 1989 and 2008, there was a significant reduction in the number of *fatalities* on state highways. This reduction does not occur on town roads and state-aid highways. This is consistent with our finding of a statistically significant decrease in fatalities on state highways since MaineDOT's anti-icing policy was implemented. It is unknown whether the anti-icing policy is the cause of the decrease.

Draft goals and recommendations concerning Materials and Practices, Environmental Protection, Budgetary recommendations at all applicator levels; Corrosion; Driver Safety and Public Education. Examples of the findings include:

- Reduce overall sand and salt use through improved practices, new materials and equipment and changes in levels of service.
- Maintain safety while reducing salt and sand use.
- Examine local and state provider practices and training to identify possible efficiency gains.
- Increase public awareness campaign to encourage the use/implementation of preventative measures.

The complete findings and recommendations will be released after acceptance by the 124th Maine State Legislature.

In current practice, as part of winter maintenance, MaineDOT uses anti-icing chemicals to (primarily rock salt) maintain safer roadways for the traveling public. MaineDOT is continually investigating and evaluating snow and ice control methods, and updating its salt priority program in an effort to balance maintaining water quality with providing safer conditions for the public. Early application of salt brine and rock salt are being used on many roads to prevent snow and ice from bonding to the road surface. This anti-icing application reduces the amounts of anti-icing chemicals used. This approach reduces the amount of chlorides and sodium in highway runoff. With respect to the Caribou Connector, we note that there are no impaired water bodies that would be affected by stormwater runoff from the proposed roadway. As discussed in the FEIS, the project will be designed in compliance with applicable Maine water quality standards and with the requirements of the Section 401 Water Quality Certification.

Comment - Economic Development - EPA's comments on the SDEIS acknowledged that funding for segments may not be available in the future and recommended that the EIS describe ongoing and planned activities that will achieve the stated goal of helping to maintain and expand Aroostook County's economy. The FEIS was not responsive on this point and we continue to believe that this is important given that funding for infrastructure improvements is limited. We recommend that this issue be addressed in the Record of Decision.

Response - The purpose of the ACTS is "to evaluate transportation alternatives that would improve the region's economy by improving transportation mobility". MaineDOT has satisfied this purpose by evaluating a range of transportation improvements throughout northern Aroostook County that would improve transportation mobility, and has advanced several of these improvements (the Caribou Connector, the Presque Isle Bypass, and Corridor Management Plans to preserve highway capacity) as identified in the long range plan. The EPA comment was addressed in Section 6-4 of the FEIS as beyond the scope of this project.

The MaineDOT *Connecting Maine Planning Our Long Range Future Statewide Long-Range Transportation Plan 2008 – 2030*, December 2008 Final Draft (*Connecting Maine*) identifies an array of transportation, land use and economic objectives and strategies to satisfy those objectives throughout the state of Maine. Chapter 8 of *Connecting Maine* identifies the *Strategies Investment Plan for the Northern Maine Development Commission* (NMDC), the planning commission for Aroostook County. A partial list of the objectives and strategies specifically identified for the Caribou and Presque Isle region include:

- Maintain mobility throughout the transportation network
- Invest in public transportation
- Develop a corridor management plan between Presque and Caribou.
- Work with the Maine State Police to reduce speed in municipal downtowns.
- Upgrade portions of Rte. 161 that have direct access to empowerment zone communities or designated Pine Tree Zones.
- Identify routes and alternatives that remove pass through heavy truck traffic through Caribou.
- Eliminate turning radius issues at the intersection of Rtes. 163 and 1 in Presque Isle.
- Review land use and zoning ordinances to ensure that the portion of the corridor between Presque Isle and Easton remains a viable heavy haul truck route.
- Maintain and improve accesses to the region's mills.
- Construct a by-pass around the City of Caribou north of Cary Medical Center to Rte. 161 near the public golf course.
- Ensure that road segments are constructed to maintain heavy haul traffic.

Comment – The Maine Department of Inland Fisheries & Wildlife provided suggestions and information for consideration as wetland mitigation for unavoidable impacts to wetlands.

Response - These suggestions for mitigation are being analyzed for possible implementation.

Comment - Mr. D. Rosenberg commented that the FEIS does not mention negative impacts of the project on commercial retail business.

Response - The FEIS addresses possible economic impacts of a bypass on pages 5-17 to 5-20 in sections 5.3.3.3 and 5.3.3.4.

Comment - Mr. Rosenberg also requested clarification of the number of intersection points of the proposed connector with existing roadways.

Response – Language is inserted for clarity

FEIS page 3-8, Section 3.2.7 third paragraph, identifies Alignment Option 4B as:

Alignment Option 4B includes 3.7 miles of new-alignment highway, and 0.58 miles of existing highway reconstruction. A 0.28-mile section of Route 161 would be upgraded to tie-in to Route 161, and 0.3 miles of Route 1 would be upgraded at the south end of the Connector. Alignment Option 4B ties into Route 161 at a “T” intersection approximately 1.5 miles south of Ogren Road. It has an at-grade intersection with Route 1 (south) and Route 161, and a grade separated intersection at Route 1 (north). Route 89 would not be provided access and would be either overpassed or underpassed.

This language is inserted for clarity:

Alignment Option 4B includes 3.7 miles of new-alignment highway and 0.58 miles of existing highway reconstruction. The new alignment section has three connections to existing highways, an at-grade intersection at Route 1 in the vicinity of High Street and Belmont Street, a grade separated intersection at Route 1 north of the Cary Medical Center, and an at-grade “T” intersection at Route 161 about 1.5 miles south of Ogren Road. At the northwesterly terminus of the Connector, a 0.28-mile section of Route 161 would be upgraded. At the southerly terminus of the Connector, a 0.3 mile section of Route 1 would be upgraded.

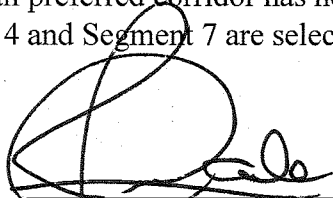
An FEIS errata sheet is also included in Appendix A.

Conclusion and Approval

Based on the information provided in the FEIS; consultation with appropriate Federal, state, and local agencies and the general public; and review of comments received on the FEIS, the FHWA provides the following Tier 1 decisions:

- An overall preferred corridor has not been identified.
- Segment 4 and Segment 7 are selected and advanced for Tier 2 evaluations.

Approved:



Jonathan McDade
Division Administrator
Federal Highway Administration

Date: February 1, 2010

Federal Highway Administration
Maine Division

FHWA-ME-EIS-02-1-F
Tier 1 – Aroostook County Transportation Study
Tier 2- Route 1 – 161 Connector, Caribou

Errata Sheet

Page 4-8 Section 4.3.1.4 Land Use Planning and zoning, add “Z” to read Land Use Planning and Zoning.

Page 4-9 Section 4.3.2.1 Regulatory Context – Change “...enacted by the US. Department of Agriculture (USDA)...” to “...enacted by the United States Congress...”

Page 5.5.2.3 Mitigation (of Noise Impacts) used an incorrect value of \$20,000 per impacted receiver. The correct value is \$30,000.

The Tier 2 – Route 1-161 Connector, Caribou FEIS section on noise (Section 5.5.2.3 Mitigation) evaluated traffic noise abatement for the Proposed Action and two other alignments, based on the MaineDOT *November 1st, 2001* Highway Traffic Noise Policy. MaineDOT revised the Highway Traffic Noise Policy with an effective date of May 1st, 2008. The 2008 Policy increased the reasonable cost for noise abatement to \$30,000 up from \$20,000 per receiver with a \$30 per square foot noise barrier. Based on current policy, noise abatement remains feasible but not reasonable. The change in policy and increase in allowable costs for noise barriers supports the determination that construction of noise barriers is feasible, although they are determined not reasonable because they exceed the MaineDOT cost criteria for the Proposed Action.

Page 8-2 Section 8.2 List of Preparers:

Add “J” to udith Linsey to read “Judith Lindsey”

Add “J” to ohn Perry to read “John Perry”

Page 8-4 Section 8.3

Add “J” to onathan Feinstein to read “Jonathan Feinstein”



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

January 25, 2010

OFFICE OF THE
REGIONAL ADMINISTRATOR

Jonathan McDade, Division Administrator
Federal Highway Administration
Room 614, Federal Building
Augusta, Maine 04330

RE: Final Environmental Impact Statement, Tier 1-Aroostook County Transportation Study, Tier 2-Route 1-161 Connector, Caribou (CEQ#20090439)

Dear Administrator McDade:

The Environmental Protection Agency-New England Region (EPA) has reviewed the Federal Highway Administration's (FHWA)/Maine Department of Transportation's (MaineDOT) Final Environmental Impact Statement (FEIS) Tier 1-Aroostook County Transportation Study (ACTS), Tier 2-Route 1-161 Connector, in Caribou, Maine. The FEIS focuses mainly on the Caribou Connector and notes that decisions regarding ACTS's larger regional transportation initiatives, intended to improve mobility and catalyze economic growth within northeastern Aroostook County, are being deferred for an unspecified amount of time. We submit the following comments on the FEIS in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

As we stated in our 2002 comments on the DEIS, EPA typically reviews transportation projects proposed to remedy identified traffic problems related to capacity, congestion or safety, and we noted that the Aroostook study is not driven by any of these transportation problems. Instead, the study is intended to determine ways that transportation improvements could create economic opportunities for the region. EPA recognizes the tiered approach as an appropriate means to review specific smaller projects (such as the Caribou Connector and Presque Isle Bypass projects) within the 2760 square mile study area. According to the FEIS (page 1-9), "FHWA and MaineDOT have deferred the selection of an overall preferred north-south corridor." Decision-making is "deferred until funds or need are identified" and the FEIS notes that additional NEPA review will be required as part of future studies that will build upon the NEPA process to date.

We support this approach and in this letter we present our specific comments on the Caribou Connector. It is our understanding that a separate FEIS for the Presque Isle Bypass will be provided at a later date. We note that even though our comments on this FEIS focus on the Caribou Connector (and how the FEIS responded to comments we offered on the SDEIS for the overall project) we continue to believe that the larger

corridor project(s) have great potential for significant impacts that could affect the environment and residents of Aroostook County in many ways. As we stated in 2002, future NEPA analyses will be critical to enable a determination as to whether any of the work within the alternative corridors is viable in an environmental, social and regulatory context.

Caribou Connector

Wetland Impacts and Mitigation

The proposed Caribou Connector is a 4.3-mile new connection between Route 1/High Street and Route 161 in Caribou. According to the FEIS the Connector would improve mobility, access, and safety to and around Caribou, remove trucks from downtown Caribou, and reduce travel time. MaineDOT evaluated the transportation benefit and environmental impacts of various alternatives for the Connector and identified Alignment Option 4B as the Preferred Alternative. Alignment Option 4B was found to have the least impact to wetlands, farmland, historic property, and structures. The United States Army Corps of Engineers (Corps), EPA and the United States Fish and Wildlife Service (USFWS) concurred with this finding and identified Alignment Option 4B as the Least Environmentally Damaging Practical Alternative (LEDPA) under Section 404 of the Clean Water Act. EPA has no objections to the Caribou Connector as proposed. Alignment Option 4B includes 3.7 miles of new-alignment highway and .58 miles of existing highway reconstruction. The new alignment extends roughly parallel to the MM&A Railway before crossing Route 89. North of Route 89 the alignment traverses farmlands and forest before intersecting with Route 161 near Ogren Road. The alignment directly impacts 3.4 acres of wetland and includes 1 stream crossing. The proposed design represents a significant improvement over options presented in the SDEIS which included up to 60 acres of direct wetland aquatic impacts.

The FEIS considers 15 wetland mitigation sites to address wetland impacts using criteria consistent with the Corps compensatory mitigation guidance as well as recommendations from EPA and other agencies. The evaluation of mitigation sites includes establishing new wetlands (wetland creation, wetland replacement), wetland restoration, wetland functional enhancement, and wetland preservation. The guidance also allows an applicant to purchase credits from a mitigation bank or pay a compensation fee in lieu of constructing compensatory wetlands. At an interagency meeting on January 12, 2010 the Corps, EPA, USFWS and Maine Inland Fisheries and Wildlife program identified four additional mitigation sites that appear to be more appropriate for compensation of the aquatic impacts than some of those considered in the FEIS. Even though the Corps has not received a complete permit application, interagency discussions concerning mitigation are ongoing and include the four new sites. EPA will continue to participate in the mitigation plan development process and will review and comment on the Section 404 permit application when it is filed with the Corps.

Transportation Systems Management/Transportation Demand Management (TSM/TDM)

In addition to the reduction of environmental impacts of the Caribou Connector since it was first presented to the federal agencies for review, EPA also appreciates the MaineDOT commitment to "continue to consider TSM and TDM measures in combination with the Preferred Alternative to benefit the transportation system in Caribou." We continue to support this approach and believe specifics regarding the scope of this commitment should be provided in the Record of Decision.

General

Managing Road Salt

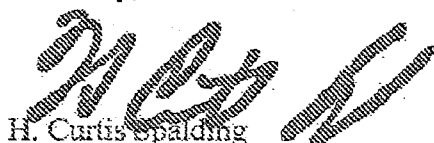
We reiterate our recommendation that MaineDOT and FHWA more fully address the potential for impacts to water quality from the application of road salt. We recommend that the Record of Decision describe how the project will comply with applicable Maine water quality criteria for chloride, sodium, and existing antidegradation statutes for surface water quality, or with national secondary drinking water standards. Ongoing investigations of highways in the New England Region since the publication of the SDEIS have shown that water quality issues associated new or expanded roadways can be challenging in those cases where roadway discharges will reach impaired waterbodies. We continue to urge FHWA and MaineDOT to work to fully address these issues and offer our technical assistance to help with that effort.

Economic Development

EPA's comments on the SDEIS acknowledged that funding for segments may not be available in the future and recommended that the EIS describe ongoing and planned activities that will achieve the stated goal of helping to maintain and expand Aroostook County's economy. The FEIS was not responsive on this point and we continue to believe that this is important given that funding for infrastructure improvements is limited. We recommend that this issue be addressed in the Record of Decision.

We appreciate the opportunity to comment on the FEIS. We are available to provide additional input, as necessary, to help FHWA and MaineDOT address these issues in the Record of Decision. Please feel free to contact Timothy Timmermann of the Office of Environmental Review at 617/918-1025 if you wish to discuss these comments further.

Sincerely,


H. Curtis Spalding
Regional Administrator



JOHN E. BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0041

ROLAND MARTIN
COMMISSIONER

December 29, 2009

PO Box 447
Ashland, ME 04732

Russell Charette
Maine DOT, BTSP
16 State House Station
Augusta, ME 04333-0016

RE: Comments regarding mitigation measures for Caribou Bypass, Rt. #1 – 161 Connector

Dear Mr. Charette:

Potential impacts and mitigation for these impacts to the aquatic habitat of Longfellow Brook are adequately addressed in the Final Environmental Impact Statement, December 2009. We would encourage the use of a bridge or open bottom culvert to maintain the integrity of the stream bottom under the crossing.

Alignment Option 4B has identified fisheries habitat as an impacted resource in Wetland system 4008 and 90003. None of the potential wetland mitigation sites listed in Table 5-13 on page 5-42 identify existing function values or potential function values to benefit fisheries habitat in adjacent wetland systems. Regional fisheries and wildlife staff have recommended alternative wetland mitigation to the 15 listed in the FEIS. We have identified IWWH #130276 on Rt. #205 (East Presque Isle Road) for acquisition and improvements that would preserve and enhance this wetland. Suggested improvements would enhance the wetland habitat for fisheries. We would urge you to consider our recommendation to acquire and improve IWWH #130276 as mitigation to address wetland impacts. These recommendations have been forwarded to IF&W Environmental Coordinator Steve Timpano.

Thank you for the opportunity to review and comment on this MDOT project.

Sincerely,

David J. Basley
Regional Fishery Biologist



JOHN E. BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0041

ROLAND MARTIN
COMMISSIONER

RECEIVED

DEC 22 2009

Wildlife Division
PO Box 447
Ashland, ME 04732

December 17, 2009

RECEIVED
DEC 22 2009

Russell Charette, P.E.
MaineDOT, BTSP
16 State House Station
Augusta, Maine 04333-0016

Re: Comments regarding mitigation measures for Caribou Bypass, Rt.#1 – 161 Connector

Dear Mr. Charette,

MDIFW has already sent-in comments regarding possible mitigation options for wetland impacts resulting from the Caribou bypass project. We are still very interested in having MDOT explore these mitigation options, particularly the wetland acquisition and improvements suggested for IWWH # 130276 on Rt #205 E. Presque Isle Road. However, we would like to add one additional mitigation option to the Final Environmental Impact Statement regarding impacts to wildlife habitats as discussed on pages 5-53 and 5-54 under section 5.4.3.1 Wildlife Habitat – Mitigation. In this section safety measures for reducing wildlife-vehicle collisions are briefly discussed, we would like MDOT to consider including beaver deceiver add-on culvert pipes to the list of wildlife mitigation measures.

Installation of this specialized equipment or pipes is not to prevent beaver-vehicle collisions but to prevent beaver from creating the roadside wetland habitat that attracts many other species of wildlife, such as moose, to these roadside areas. Private industrial landowners in the North Maine Woods have experimented with these culvert add-on devices and have found them very effective in preventing beaver from plugging road culverts. Putting these devices on small stream crossings or culverts would not only prevent beaver from plugging culverts and reducing subsequent road damage but also prevent beaver from creating the small roadside wetlands that are very attractive to moose (particularly in the late spring and early summer) often resulting in moose-vehicle collisions. Also, these same wetlands by design, capture run-off water from roads and adjacent fields which often results in high mineral nutrients in the sediments and aquatic plants making them very palatable to moose. If we allow beaver to plug these culverts these nutrients are trapped at these sites and we eventually create a “moose lick” or moose feeding site.

Given that this by-pass project is in an area that already has a very high number of moose-vehicle collisions plus a high number of beaver damage complaints we recommend that MDOT consider these beaver deceiver culvert add-ons in their road project design. They do add some additional cost to the initial project construction but appear to prevent future road damage and some moose-vehicle collisions which may save in the long term.

Respectfully,

Arlen Lovewell
Asst. Regional Wildlife Biologist
MDIFW Ashland Regional Office

MAINE WARDEN SERVICE
PHONE: (207) 287-2104

FISH AND WILDLIFE ON THE WEB:
www.mefishwildlife.com

EMAIL ADDRESS:
ifw.webmaster@maine.gov

CARIBOU MANAGEMENT COMPANY LLC
171 Madison Avenue, Suite 1005
New York, NY 10016

January 21, 2010

Mark Hasselmann
Federal Highway Administration
Room 614, Federal Building
440 Western Avenue
Augusta, ME 04330
Phone: 207-622-8350

RE: Report # FHWA-ME-EIS-O2-1-F (FEIS - Segment 4 Caribou Bypass Section)

Dear Mr. Hasselmann:

My company owns the Skyway Plaza shopping center in Caribou, ME. It is located at the intersection of US-1, Bennett Drive and Route 89. This intersection is the commercial heart of Caribou. Most retail shopping in Caribou occurs in the Skyway Plaza-Bennett Drive corridor surrounding this intersection.

Retail sales depend upon cars driving directly in front of commercial property. It is evident from the option 4B that maintaining the current amount of cars passing by this intersection was not a priority of the study.

In the report, there is no mention of the negative impact on commercial retail business, especially the loss of impulse shopping that occurs when a car no longer passes by this intersection. The net result of the proposed plan will have a devastating effect on the retail shopping environment in Caribou.

I voice strong opposition to Option 4B. The only options that consider the needs of retail in the Skyway Plaza-Bennett Drive Corridor are options 1, 2, and 4C. I would also suggest that the no-action alternative would be the best alternative. Caribou is not downtown Portland. It is a rural community. There is no traffic problem. In these difficult times, government money should be spent on more essential services.

I would hope the final decision includes factoring in the commercial retail industry and thus the long-term employment and shopping needs of the citizens of Caribou.

Thank you for your time.

Sincerely,

Daniel Rosenberg
President
Caribou Management Company LLC

Appendix B

Agency Correspondence

- B-1 U.S. Army Corps of Engineers LEDPA Letter Dated June 27, 2012
- B-2 Federal Highway Administration Letter to U.S. Army Corps of Engineers Dated December 12, 2011
- B-3 U.S. Fish and Wildlife Service Letter Regarding Endangered Species Dated December 11, 2012
- B-4 Maine Programmatic Agreement Regarding Endangered Species Act for Canada Lynx Dated December 2008
- B-5 FHWA Letter Regarding Essential Fish Habitat Delegation to MaineDOT Dated August 28, 2012
- B-6 NOAA Fisheries Service Essential Fish Habitat Consultation Correspondence
- B-7 Maine Department of Inland Fisheries and Wildlife Letter Dated July 26, 2010
- B-8 NRCS Farmland Conversion Impact Correspondence
- B-9 Maine Historic Preservation Commission Correspondence Dated September 26, 2011

Appendix B-1

U.S. Army Corps of Engineers

LEDPA Letter Dated June 27, 2012



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

JUN 27 2012

Regulatory Division
CENAE-R-51
FILE NUMBER: NAE-2008-02480

Russell D. Charette, PE
Director, Mobility Management Division
Bureau of Transportation Systems Planning
Maine Dept. of Transportation
16 State House Station
Augusta, Maine 04333

Dear Mr. Charette:

This refers to Maine DOT's application, number NAE-2008-02480, for a Department of the Army permit to fill waterways and wetlands in order to construct a bypass roadway around the City of Presque Isle, Maine, thereby improving public safety and relieving traffic congestion.

We have been evaluating your project in accordance with the Clean Water Act and other applicable laws and regulations. Section 404(b)(1) of the Clean Water Act, known as the 404(b)(1) Guidelines, are found at 40 CFR 230. The Guidelines require avoiding and minimizing adverse impacts to waters and wetlands, and the selection of a Least Environmentally Damaging Practicable Alternative ("LEDPA"). Section 230.10 (a) states, "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences."

The Corps has completed its review of the general and specific information you have provided or which is otherwise available on alternatives to the project. This includes Maine DOT's Phase II analysis of alternatives and its numerous supplements, comments received in response to our September 23, 2008 public notice, the draft environmental impact statement of the Federal Highway Administration ("FHWA"), and the Section 4f determination (23 CFR 774.17) by the FHWA and our interagency discussions of that determination.

It is the Corps determination that Alignment Option 7 is the LEDPA. This alternative includes approximately 9.2 miles of new alignment highway; 0.07 miles of upgrade to Route 1; and 0.35 miles of upgrade to the northern connection to Route 1. Up to 22 acres of wetland impact and 10 stream crossings will be required by this alternative as shown on the attached plan entitled "PRESQUE ISLE BYPASS, ALIGNMENT OPTION 7" in one sheet dated "June 2008".


Our LEDPA determination is based on the preliminary application submitted by Maine DOT. **This determination is not a permit decision.** The LEDPA determination will assist Maine DOT as they continue project planning and pursue future funding. Any future Corps permit decision will require the submission of a final complete permit application, evaluation of additional measures to further avoid and minimize impacts to aquatic resources, and the development of a detailed mitigation plan intended to compensate for any unavoidable impacts to wetlands and other aquatic resources. Maine DOT will also be required to obtain a permit and water quality certification from the Maine Dept. of Environmental Protection ("Maine DEP").

The selection of the LEDPA does not preclude additional minor reroutes or other minor changes in project design that may arise. Similarly, the Corps retains the discretion to revisit the LEDPA determination should substantial new information on impacts to the environment or affected public interest factors arise. I wish to encourage you and your consultants to continue working with state and federal regulatory/resource agencies as well as the general public to avoid and minimize impacts to waterways and wetlands and other important public resources.

As with any highway project that involves unavoidable direct *and* indirect impacts to aquatic resources, adequate compensatory mitigation will be a major factor in any future permit decision. We encourage Maine DOT to continue early planning and coordination in this area. Ideally preliminary information on mitigation opportunities should be included in the final permit application. Although you and your consultants are aware of it, let me remind you that mitigation must be planned in accordance with the most current mitigation guidance from the Corps. This is available at our New England District web site at www.nae.usace.army.mil/regulatory. Identifying potential mitigation sites and assembling site analysis data, such as monitoring hydrology levels, should continue to be closely coordinated with the Corps, our federal resource agency partners, and the Maine DEP.

If you have any questions, please contact Jay Clement of my staff at 207-623-8367 at our Manchester, Maine Project Office.

Sincerely,


Jennifer L. McCarthy
Chief, Regulatory Division

Copies Furnished:

Beth Alafat – USEPA

Wende Mahaney – USFWS

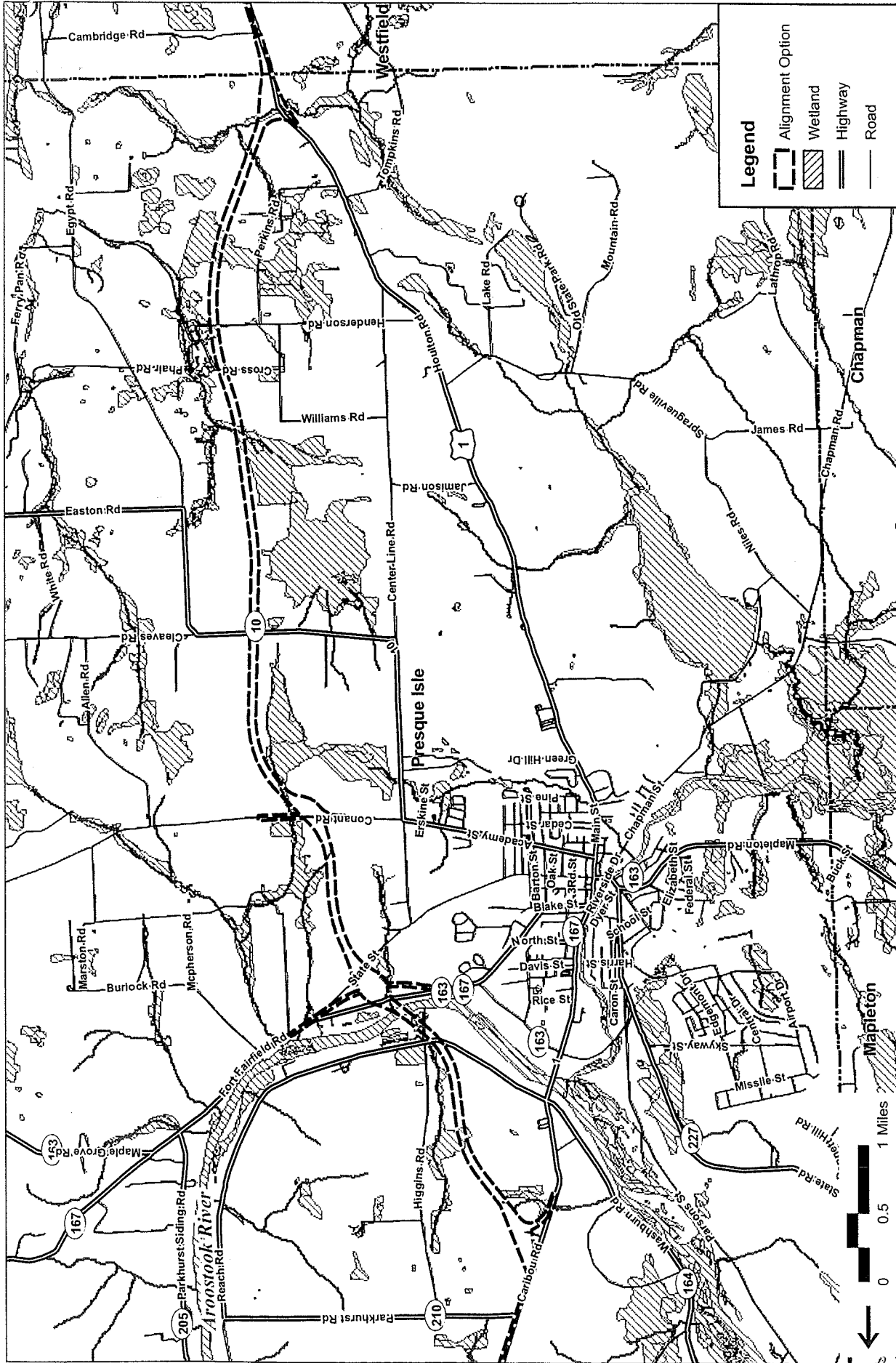
Dan Tierney – NMFS

Mark Hasselmann – FHWA

Robin Clukey – Maine DEP

Jim Bennett – City Manager, Presque Isle, ME

Lisa Stanley – VHB, Inc.



DATE
June, 2008

SHEET
5 of 5

PRESQUE ISLE BYPASS ALIGNMENT OPTION 7

APPLICATION BY:
Maine Department of Transportation



AT: Presque Isle
IN: Arrostook County,
Maine
16 State House Station, Augusta, ME 04333

Appendix B-2
Federal Highway Administration Letter to
U.S. Army Corps of Engineers Dated
December 12, 2011



U.S. Department
of Transportation
**Federal Highway
Administration**

Maine Division

December 12, 2011

40 Western Ave, Rm 614
Augusta, ME 40330
207-622-8350

In Reply Refer To:
HDA-ME

Jay Clement
Senior Project Manager
Maine Project Office
New England District
US Army Corps of Engineers
675 Western Avenue #3
Manchester, ME 04351

Dear Mr. Clement:

This letter is a response to the Maine Project Office of the New England District Army Corps of Engineers (USACE) request to clarify Section 4(f) of the U.S. Department of Transportation Act of 1966 (Section 4(f)) as it applies to the Presque Isle Bypass component of the Aroostook County Transportation Study (ACTS) Final Environmental Impact Statement (FEIS). Section 4(f) is codified in 49 United States Code (U.S.C.) 303, 23 U.S.C. 138, and 23 Code of Federal Regulations (CFR) 774.

Section 4(f) applies to all actions and modal administrations of the U.S. Department of Transportation (USDOT) and 23 CFR 774 applies to all Federal Highway Administration (FHWA) actions. USACE requests a formal Section 4(f) determination of applicability and use from the FHWA Maine Division Office for the three remaining Presque Isle Bypass Alignment Options (alternatives), under consideration in the New England District "Highway Methodology". The Highway Methodology integrates the Section 404 permit requirements of the Clean Water Act with the National Environmental Policy Act (NEPA).

FHWA NEPA requirements are found at 23 CFR 771. FHWA NEPA policy requires that to the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process and all applicable environmental requirements be reflected in the environmental review document required for each project; this includes compliance with Section 4(f). NEPA must be complete with a decision document, for this project a Record of Decision, prior to commencing final design of a project.

Section 4(f) provides statutory protection to publicly owned land from public parks, recreation areas, or wildlife and waterfowl refuges or any land from an historic site (public or private) of national, state, or local significance unless there is no feasible and prudent alternative to the use of such land and that use includes all possible planning to minimize harm. Historic sites are defined at 23 CFR 774.17 to include any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places (NRHP). As defined in 23 CFR 774.17, a feasible and prudent avoidance alternative avoids using Section

4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property. If a feasible and prudent avoidance alternative exists, we are required to select that alternative. If there is a proposed transportation use of a property protected under Section 4(f), and there is no feasible and prudent avoidance alternative that avoids all use, a least harm analysis is required.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended Section 4(f) to simplify the processing and approval of projects that have only "de minimis" impacts on lands protected by Section 4(f). De minimis impacts for historic sites are those impacts that are determined to have "no adverse effect" under 36 CFR 800 Protection of Historic Properties (the implementing regulations for Section 106 of the National Historic Preservation Act of 1966 (NHPA)) or, for parks, recreation areas, and wildlife and waterfowl refuges, impacts will not adversely affect the features, attributes, or activities qualifying the property for Section 4(f) protection.

A de minimis determination requires that the agency with jurisdiction concur that the impact is de minimis (does not affect the essential qualities of the resource that make it protected). In this case, the agency with jurisdiction has determined that the taking would be an adverse effect and therefore it does not meet the legal requirements of a de minimis finding. Thus, it must be analyzed under the mandates of Section 4(f), including an evaluation of avoidance alternatives.

Based on comments received by FHWA on a preliminary draft of this letter, MaineDOT and FHWA began a re-assessment of historic properties in the area of potential effects for the remaining alignments of the Presque Isle Bypass. This re-assessment was conducted between March 2010 and September 2011 culminating in October 2011 with SHPO concurrence in eligibility and effects determinations. There is no de minimis Section 4(f) use identified in any of these remaining three alignments under consideration.

The comments also questioned the language used in the March 5, 2010 Presque Isle Bypass Supplemental Information for the Corps of Engineers document provided by the project consultant to describe possible de minimis Section 4(f) impacts and determinations on Alignment Option 4B. The referenced document states in section 1.1 Alignment Option 4B "It is possible that the use of the farmstead property could be reduced or completely avoided during final design. If avoidance of this property was not possible, it would likely constitute a *de-minimis* Section 4(f) impact." This statement contains several inaccuracies: the projected acquisition of 0.3 acres of a 2.0 acre parcel coupled with loss of access to that parcel and demolition of the historic structure are not minor impacts. The proposed impacts of alignment Option 4B of a 0.3 acre use of the parcel and demolition of the historic structure located thereon are clearly adverse and not de minimis.

The Presque Isle Bypass Alignment Options (alternatives) remaining under consideration for the ACTS FEIS are Alignment Options 4B, 6, & 7. FHWA has determined the historic properties that would be impacted by Alignment Options 4B and 6 are eligible for the NRHP and the proposed impacts are determined adverse in applying the criteria of adverse effect found at 36 CFR 800 of the Advisory Council on Historic Preservation regulations for Protection of Historic Properties. The Maine State Historic Preservation Officer concurred with the FHWA Section 106 determination of these adverse effects on October 6, 2011.

Alignment Option 4B would require the use of two Section 4(f) properties, the Farmstead located at 1 Centerline Road, and the King Farm located at 33 Easton Road, Presque Isle, both properties eligible for inclusion in the NRHP. The impact to these properties would be an adverse effect under Section 106 and a Section 4(f) use. Alignment Option 6 would adversely effect and use three Section 4(f) properties eligible for inclusion in the NRHP located on Caribou Road, the Maysville School and Grange, the Potato Barn, and English Barn as well as a fourth NRHP eligible property, the Farmstead at 138 Reach Road. Alignment Option 7 avoids use of any Section 4(f) properties.

Alignment Option 7 is a feasible alternative under 23 CFR 774.17 Definitions *Feasible and prudent avoidance alternative* (2) and (3) as it can be built as a matter of sound engineering judgment; Alignment Option 7 is a prudent alternative as it fully meets the stated purpose and need of the project and impacts can be reasonably mitigated.

Costs estimates for these three remaining alternatives, including mitigation, range from \$140 million for Option 4B to \$153 million for Option 7. Proposed mitigation for the projected project impacts may include a suite of options. MaineDOT has identified at least four potential sites that can be used for wetland mitigation. Preliminary In-Lieu-Fee calculations for each remaining alignment under consideration range from \$1,860,000 for Option 6 to \$2,961,000 for Option 7. There may be opportunities for in-kind and out-of-kind on-site mitigation during further design or construction. Moving forward, MaineDOT will evaluate possible animal crossings for mitigation of habitat fragmentation issues and other possible indirect and cumulative impacts. We note that the site search for the Caribou project yielded little in the way of mitigation sites and the agencies selected the Mattawamkeag parcel. These mitigation options or a combination of these options is suitable mitigation for the proposed wetland impacts.

Key environmental impacts for the remaining Presque Isle Bypass alignments are: Option 4B would impact 18 acres of wetlands, 13 acres of which are considered high value; Option 6 would impact 14 acres of wetlands, nine (9) acres of which are considered high value; and Option 7 would impact 22 acres, of which 13 acres are considered high value. Option 4B would require eight (8) new stream crossings, Option 6 would require ten new crossings, and Option 7 would require ten new stream crossings. Option 4B would impact one (1) vernal pool; Option 6 would impact three (3) vernal pools, and Option 7 would impact one (1) vernal pool. Option 4B and Option 7 would not impact any waterfowl and wading bird habitat and Option 6 would impact 0.7 acres of wading bird habitat. Option 4B would require the acquisition of 19 total structures, 15 of which are residential; Option 6 would require the acquisition of 24 structures, 22 of which are residential; and Option 7 would require 18 structures be acquired, 11 of which are residential. Option 4B would impact 264 acres of farmland, Option 6 would impact 289 acres of farmland, and Option 7 would impact 218 acres of farmland. On balance, each of these alternatives has similar impacts and these impacts can be successfully mitigated.

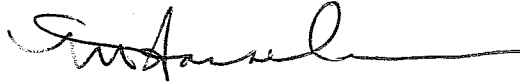
Therefore, under 23 CFR 774, Alignment Option 7 is a feasible and prudent avoidance alternative for Section 4(f) uses and FHWA must select this alternative. Alignment Option 7, the avoidance alternative, is also the preferred alternative, and does not create other severe impacts which outweigh the importance of the Section 4(f) resource. In addition, impacts from this alternative can be mitigated. Alignment Option 7, the preferred alternative, is identified based on meeting purpose and need and balancing all of the transportation benefits against any adverse impacts. It was identified based on an overall balancing test, as well as the needs of Section 4(f).

We note that as there is a feasible and prudent avoidance alternative to the use of properties protected under Section 4(f), no least harm analysis is required or warranted.

FHWA provides this preliminary determination and identifies Alignment Option 7 as the feasible and prudent avoidance alternative for the Presque Isle Bypass for the ACTS FEIS. A formal determination will be provided through the completion of the NEPA process with legal sufficiency review of the FEIS, approval of the FEIS, and a Record of Decision.

Please contact me at 207-622-8350 Ext. 103 if you have any questions.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Mark Hasselmann", with a long horizontal flourish extending to the right.

Mark Hasselmann
Manager ROW & Environment

cc:
Russell Charette, MaineDOT (e-copy)

Appendix B-3
U.S. Fish and Wildlife Service Letter
Regarding Endangered Species Dated
December 11, 2012



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Maine Field Office
17 Godfrey Drive, Suite #2
Orono, Maine 04473
207/866-3344 Fax: 207/866-3351

December 11, 2012

Richard Bostwick
Supervisor Field Services Unit
Environmental Office
Maine Department of Transportation
16 State House Station
Augusta, Maine 04333-0016

Dear Mr. Bostwick:

Thank you for your letter and biological assessment dated November 1, 2012 requesting information or recommendations from the U.S. Fish and Wildlife Service. This letter provides the Service's response pursuant to Section 7 of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531-1543), Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250), and the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-667d).

Project Name/Location: Route 1 bypass, Presque Isle, Aroostook County, Maine

Log Number: 05E1ME00-2013-I-0038

Maine Department of Transportation (MEDOT) proposes to construct a two-lane 9.8 mile bypass east of Presque Isle, Aroostook County, Maine. The project area includes a 300 foot wide corridor. The southern terminus of the highway will begin in Westfield near the Cambridge Road and continue north to cross the Aroostook River and terminate 2000 feet north of Route 210. A small portion (less than one acre) of the highway at its southern terminus in Westfield is in the Canada lynx (*Lynx canadensis*) critical habitat. The remainder of the area is within the range of the Canada lynx in Maine, thus the Canada lynx could occur in the vicinity. The closest documented occurrences are located seven miles west of the project area.

The landscape east of Presque Isle is predominantly agriculture interspersed with small woodlots. Numerous small, rural roads bisect the area as do many farm access roads. This landscape lacks suitable habitat to support a Canada lynx home range. The BA cites Hoving's (2001) model of Canada lynx habitat in northern Maine. This model predicts the project area has only a 10 percent probability of being suitable Canada lynx habitat. Key habitat features for Canada lynx are missing, including extensive areas of young softwood-dominated forest that

support high populations of snowshoe hares. The majority of the project area is agricultural lands would not support snowshoe hares.

The project corridor will remove 102 acres of wooded area (15 acres of boreal forest, 27 acres of deciduous hardwood, and 60 acres of spruce and hardwood mixed forest). The area of Canada lynx critical habitat affected is small (less than one acre) and comprised mostly of “matrix” forested habitat (mature forest) that is not foraging habitat for Canada lynx.

The agricultural areas east of Presque Isle are not likely to support resident Canada lynx, however transient animals may move through the area. About 25 Canada lynx have been documented killed on Maine highways since 2000, most within the critical habitat area in “core” habitat, but a few have been killed in peripheral areas. Young Canada lynx disperse from their natal areas and may travel hundreds of miles in search of an area to occupy. Adult Canada lynx also regularly make temporary excursions, sometimes for hundreds of miles, before returning to their home range. Canada lynx likely disperse throughout the agricultural lands of eastern Aroostook County using forested areas and woodlots as travel corridors between agricultural areas.

The urban areas surrounding Presque Isle are a barrier to lynx movements west of the project. Canada lynx are reluctant to cross non-forested areas greater than 300 feet, thus much of the project area would be unsuitable for dispersing lynx. There are few, if any, forest woodlots that could serve as corridors between large tracts of forested habitat west of the proposed Route 1 bypass with habitat east of the bypass. Agricultural lands continue east of the project area for many miles.

We have evaluated your project and biological assessment and concur with your determination that this project is not likely to adversely affect the Canada lynx. The project area is unlikely to support resident Canada lynx, and the landscape is not conducive to dispersing Canada lynx. A dispersing Canada lynx may occasionally wander through the area and could be at risk of road mortality, but the probability is insignificant.

Based on the information currently available to us, no other federally listed species under the jurisdiction of the Service are known to occur in the project area. Accordingly, no further action is required under Section 7 of the ESA, unless: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner that was not considered in this review; or (3) a new species is listed or critical habitat determined that may be affected by the identified action.

Bald eagles (*Haliaeetus leucocephalus*) may occur in the area. Based on the information currently available to us, there is an intact bald eagle nest south of the Aroostook River about one mile east of the project area (near Burlock Road), a second nest on a small pond east of Allen Road, and a third nest in Aroostook State Park, south of Presque Isle. In addition, dispersing, migrating, and non-nesting bald eagles may frequent the area. Golden eagles are known to migrate through the area in spring and fall.

As you are aware, many eagles have been killed on Maine's highways during the last two decades. In most cases, this is the result of road-killed wildlife, particularly large animals (deer, moose, raccoons), that provide a source of carrion that attracts bald eagles. To avoid take of bald and golden eagles, we encourage MEDOT to regularly remove large animal carcasses on this highway.

If you have any questions please contact Mark McCollough, endangered species biologist, at 207/866-3344 Ext.115 or by email at: Mark_McCollough@fws.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laury Zicari".

Laury Zicari
Project Leader
Maine Field Office

Appendix B-4
Maine Programmatic Agreement Regarding
Endangered Species Act for Canada Lynx
Dated December 2008

Programmatic Agreement for the State of Maine
Between
Maine Department of Transportation
Federal Highway Administration, Maine Division
United States Fish and Wildlife Service
Regarding Endangered Species Act
Section 7 Consultation for Canada lynx

This Programmatic Agreement (PA) is designed to comply with Informal Section 7 consultation requirements for Canada lynx as delegated to the Maine Department of Transportation (MaineDOT) by the Federal Highway Administration (FHWA) under the Endangered Species Act (ESA) 16 U.S.C. 1531-1545, as administered by the United States Fish and Wildlife Service (USFWS). The effective date of this agreement is the date of the final signature. This PA shall be reviewed every five years and updated as appropriate. An annual report of all actions taken under this PA shall be compiled and provided to the signatory agencies within 30 days of the anniversary date of implementation, and an annual meeting scheduled for the participating agencies. This PA shall be revised within 60 calendar days of any federal statutory or regulatory changes. This document may also be revised upon mutual written consent of all signatory agencies or their designated representatives.

This PA does not preclude the inclusion of FHWA in the Informal Section 7 process as currently delegated to MaineDOT. FHWA shall be copied on all USFWS and MaineDOT correspondence relating to Informal Section 7 consultation for the federal-aid highway program. Should there be disagreement as to the determination of the appropriate Category or finding, FHWA shall be consulted as the lead federal agency responsible for the federal-aid highway program.

Background

In 2000, the USFWS published a rule listing the contiguous United States population of the Canada lynx (*Lynx canadensis*) as threatened in the Federal Register (65 FR 16052) under the ESA. The ESA requires that Federal actions not jeopardize threatened and endangered (TE) species, avoid and minimize adverse effects to them, and enhance their conservation through beneficial effects where practicable. This finding was clarified in the Federal Register on July 3, 2003 (68 FR 40076).

Lynx are a specialized predator, highly adapted to moving in deep snows and preying upon snowshoe hare (Federal Register 2003). Their primary range in North America is the northern boreal forests of Alaska and Canada. Boreal forest habitat types in northern Maine represent the southern margin of the lynx range. Lynx reported home range sizes in Maine vary from about 12 square miles for females to about 26 square miles for males (71 FR 66007). Lynx also are known to disperse long distances (greater than 60 miles) when populations of their primary prey, snowshoe hare, decline (Final Environmental Assessment, USFWS Nov 2006).

Canada lynx are highly mobile and utilize a variety of habitats within northern Maine, making the screening of transportation projects for impacts problematic. This document lays out a process agreed upon by the USFWS, the FHWA and the MaineDOT to allow for consistent project screening and impact assessment based on the best available scientific and commercial data. The agreement covers all permanent and temporary aspects of construction, such as detours and temporary bridges, as well as indirect effects that could occur post construction.

Process

The project screening process for Canada lynx assists biologists in sorting projects into the following agreed upon categories:

1. Category I - "No Effect" determinations, covered under this programmatic agreement
2. Category II - "Not likely to adversely affect" determinations, covered under this programmatic agreement
3. Category III - "Likely to adversely affect" determinations

All MaineDOT federal-aid highway projects shall be screened for Canada lynx using the process agreed to and outlined in Appendices A, B, and C to determine Category. MaineDOT shall use the best available scientific and commercial data concerning impacts of the proposed projects. Data sources include the most recent range map developed by USFWS (Appendix A), habitat maps and models (University of Maine/USFWS) and MDIFW lynx occurrence data. These data are accepted by all the signatories as the best scientific and commercial data available. The Services shall verify the databases used by MaineDOT on an annual basis.

Category I (PA-1A/PA-1B)

These are projects that have no effect on Canada lynx in Maine either because they are outside of the lynx range (PA-1A) or because they are of such a scope (PA-1B) that they will not affect the lynx or designated critical habitat. Such projects include small scale maintenance projects, bridge work, and resurfacing projects that do not increase the amount of cleared area associated with a roadway. Projects screened to Category I are determined "no effect" by this agreement and require no further action. The screening and no effect determination for Canada lynx will be documented in MaineDOT's PROJEX database for use in the annual report. These projects will need to be reviewed periodically so any ancillary component such as fences for controlling access or funneling wildlife that could change the category are disclosed to, and evaluated by, the USFWS.

Category II (PA-2A/PA-2B)

These projects, due to their location and/or scope, may affect, but are not likely to adversely affect Canada lynx. The effects of these projects are expected to be discountable, insignificant, or beneficial to lynx. Category II projects are those projects that are 1) in the range of lynx in Maine but not in the proximity of lynx activity or habitat, or 2) are adjacent to suitable lynx habitat but due to the nature of development in the vicinity are unlikely to adversely affect lynx. Projects screened to Category II are also covered by this PA. MaineDOT will submit a letter to initiate informal Section 7 consultation and USFWS will respond with a written concurrence. Documentation that the project has been screened and determined may affect, not likely to adversely effect Canada lynx using the process and matrix in Appendices B and C will be placed in the PROJEX database. Accordingly, no further action is required under Section 7 of the ESA, unless: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner that was not considered in this review; or (3) a new species is listed or critical habitat determined that may be affected by the identified action.

Category III (PA-3)

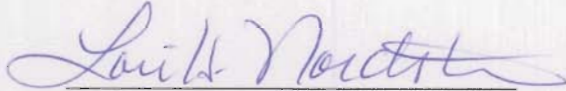
These are projects for which the MaineDOT biologist concludes that due to the location and/or scope may adversely affect Canada lynx. An increase in posted or design speed, traffic volume, new highway or facility construction, or vegetation clearing more than 50' out from centerline within lynx suitable habitat may require initiating a formal Section 7 consultation. These Category 3 projects are not be covered under this PA.

Other components of the agreement are:

- 1) A MaineDOT biologist familiar with lynx will carry out the impact determination using this process.
- 2) Concurrences issued through this process have no expiration date. However, FHWA policy requires that MaineDOT review projects to determine if the determination is valid if no major steps to advance the action have occurred over a period of three years. If site conditions change and/or new information reveals effects of the action that may affect lynx or critical habitat in a manner or to an extent not considered previously the determination must be reevaluated by a MaineDOT biologist to determine if there is a resulting change of Category.
- 3) The effect determination process will initially be audited by MaineDOT, FHWA, and USFWS annually to ensure compliance, as well as to determine the agreement's efficacy.
- 4) MaineDOT shall complete informal Section 7 consultation under this agreement prior to determining NEPA complete for any federal-aid highway project.
- 5) A spreadsheet-style annual report summarizing the projects covered by this agreement during the audit period, will be produced and submitted by MaineDOT to the Maine Field Office of USFWS and FHWA. MaineDOT shall coordinate an annual meeting of the signatory agencies for discussion of the annual report

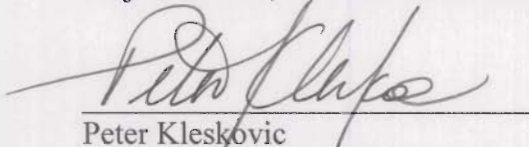
- 6) This agreement may be suspended or terminated at any time, upon a 30-day written notice from any of the signatory agencies. Should this provision be invoked, the agency requesting suspension or termination shall coordinate a meeting of all signatories to address the issue(s) of concern.

The signatory agencies agree that this jointly developed PA provides for efficient and consistent assessment of MaineDOT's federal-aid highway projects and activities for Canada lynx in a manner that is in compliance with Section 7 of the ESA and is biologically defensible.



Date 12/10/08

Lori Nordstrom
Project Leader, US Fish and Wildlife Service



Date 12-9-08

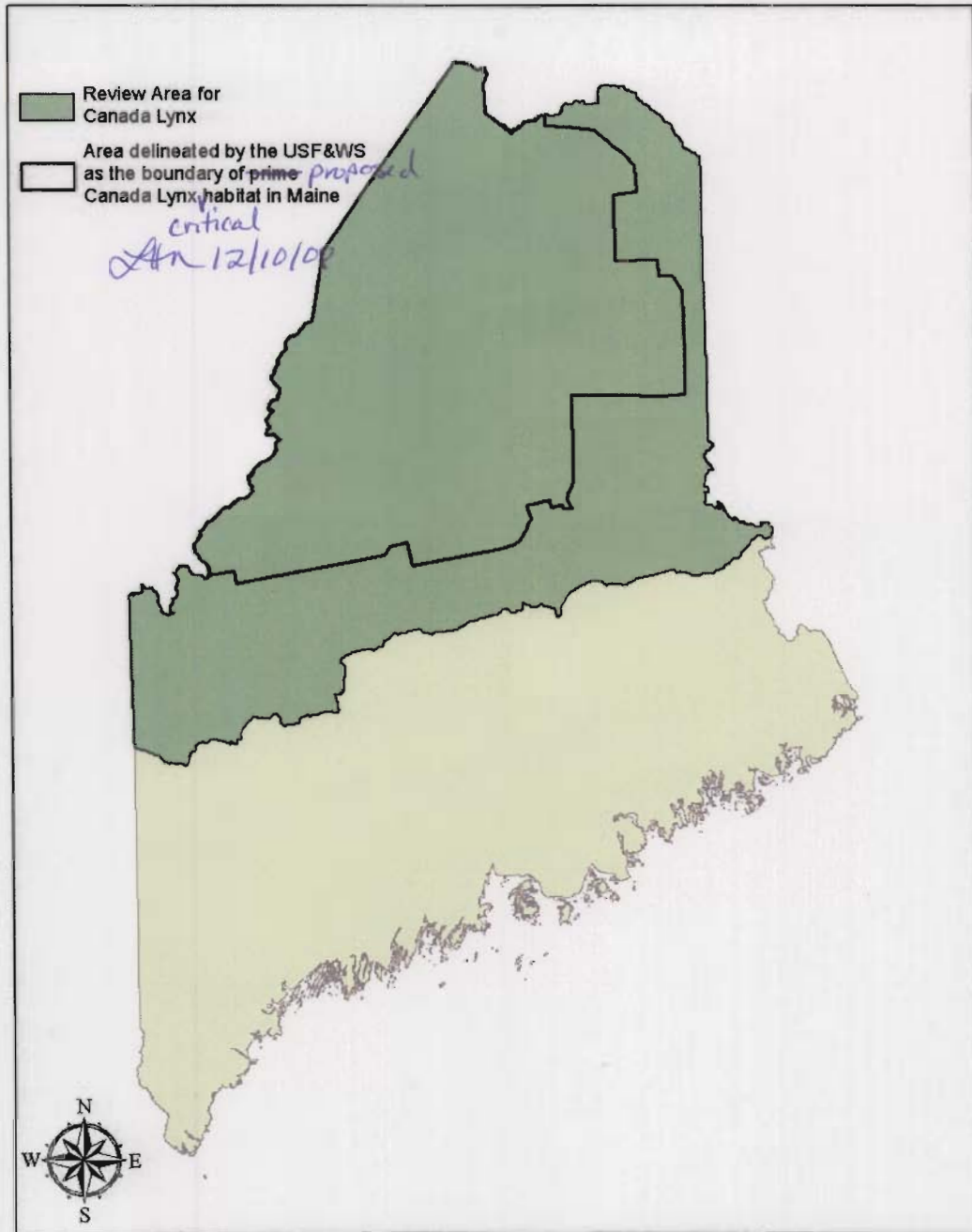
Peter Kleskovic
Assistant Division Administrator, Federal Highway Administration



Date 12/16/08

Judy Gates
Director, Environmental Office, Maine Department of Transportation

APPENDIX A
Canada Lynx Review Area



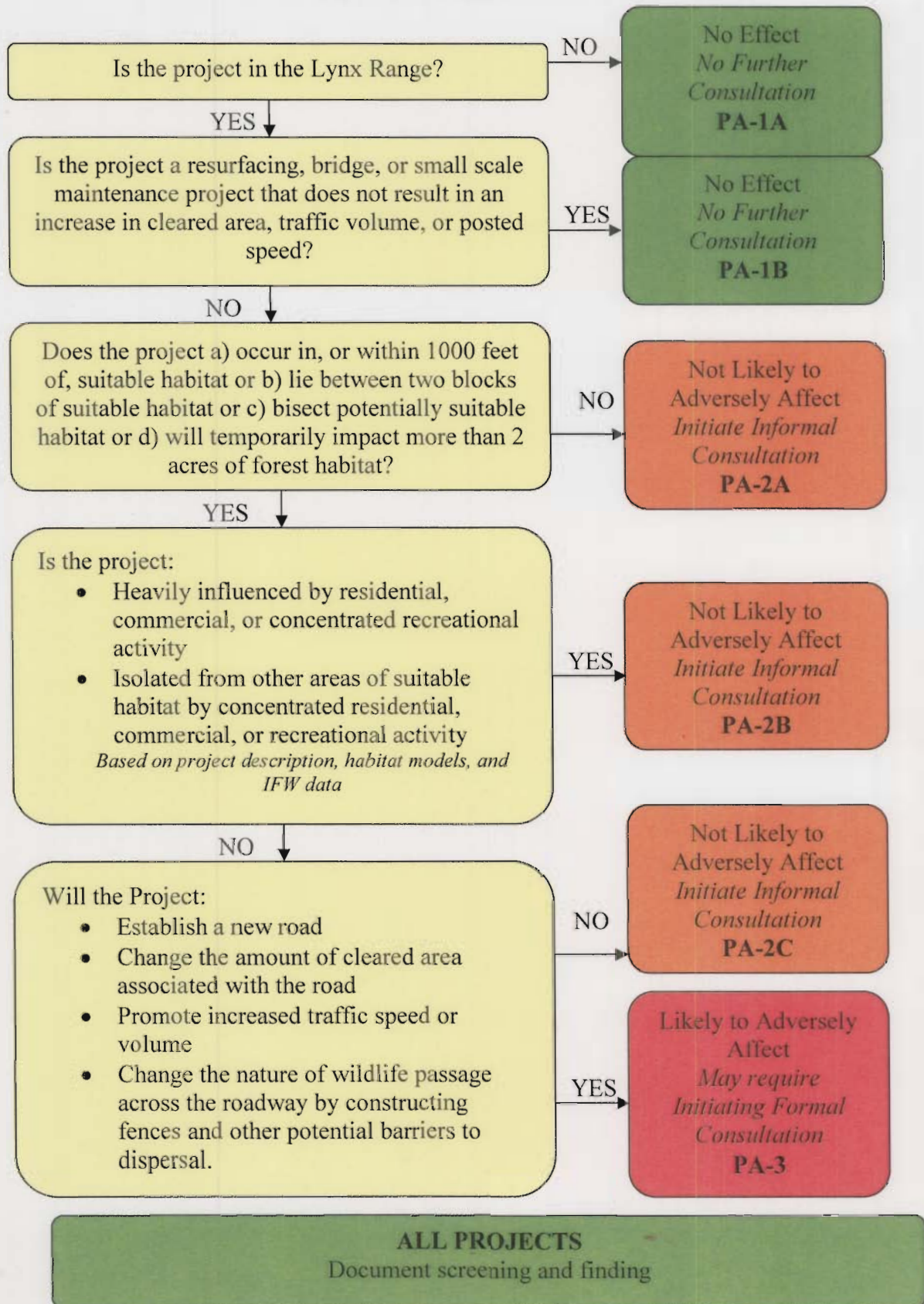
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APPENDIX B
The Impact Determination Process

The steps that the MaineDOT biologist must follow to certify that a project has met ESA review for Canada lynx under this PA are as follows.

1. Determine if a project needs review under the ESA.
 - a. Does the project have a federal nexus (federal funding or federal permit)?
 - b. Does the project occur in the agreed upon Canada lynx review area (Appendix A)?
 - i. Does the scope of the project allow for a no effect determination (Appendix D)?
2. Pre-field work review
 - a. The project will be screened using the lynx impact review form (Appendix E) that is based on agreed upon predictive models, land cover data, aerial photography, and lynx location data provided by MDIFW, to determine whether the project occurs in suitable lynx habitat,
 - i. Determine presence of landscape linkages between blocks of suitable habitat
 - b. Obtain information on action area
 - i. Determine road's posted speed and traffic volume
 - ii. Determine the cleared area associated with the road
 - iii. Travel lane and shoulder width? Paved or Gravel?
 - c. Determine if project scope will change posted speed, traffic volume, or the amount of cleared area associated with the road.
3. Site visit, as needed.
 - a. Determine dominant land use types.
 - b. Look for areas suitable for lynx and snowshoe hare, their primary food source.
 - c. If necessary, conduct snow track surveys to determine lynx activity around the travel corridor.
4. Document
 - a. Fill out lynx impact matrix and make a determination of impact.
 - b. If determination is "likely to adversely affect", formal consultation will need to be initiated with USFWS.
 - c. Impact determination form will be placed in the project's electronic file as documentation of consultation and programmatic approval, once received from USFWS, will be documented in MaineDOT's PROJEX database.

APPENDIX C
Lynx Programmatic Agreement Flowchart



APPENDIX D
Project Type Lynx Impacts

SMALL SCALE-NO EFFECT

GUARDRAIL
LIGHTING
SIGNING
STRIPING
TRAFFIC SIGNALS
VEGETATION MANAGEMENT-SPRAYING, MOWING
SIDEWALK FACILITY IMPROVEMENTS
SIDEWALK-CONSTRUCTION

RESURFACING-NO EFFECT IF NO POSTED SPEED INCREASE

1 1/4 INCH OVERLAY
3/4 INCH OVERLAY
FULL DEPTH RECLAIM WITH OR WITHOUT EMULSION
HEAVY RESURFACING
LEVEL 2 HIGHWAY RESURFACING
MAINTENANCE PAVING (HOT MULCH)
MICROSURFACING
MILL FILL
PAVEMENT PREVENTATIVE MAINTENANCE
PAVEMENT REHABILITATION

BRIDGE WORK-NO EFFECT IF NO APPROACH WORK OVER 1/4 MILE

BRIDGE CULVERT REHABILITATION
BRIDGE CULVERT REPLACEMENT OR SLIPLINE
BRIDGE IMPROVEMENT
BRIDGE PAINTING
BRIDGE REHABILITATION
BRIDGE REMOVAL
BRIDGE REPLACEMENT
BRIDGE SUBSTRUCTURE REHABILITATION
BRIDGE SUPERSTRUCTURE REPLACEMENT
BRIDGE WEARING SURFACE REPLACEMENT
BRIDGE WIDENING
BRIDGE APPROACH WORK LESS THAN 1/4 MILE LONG
ROADSIDE FENCING LESS THAN 1/4 MILE IN LENGTH

COULD INCREASE THE CLEARED AREA AND/OR THE POSTED SPEED AND/OR THE TRAFFIC VOLUME OF THE ROAD-POSSIBLE AFFECT

HIGHWAY IMPROVEMENTS
HIGHWAY RECONSTRUCTION
HIGHWAY REHABILITATION
REST AREA IMPROVEMENT
BRIDGE APPROACH WORK GREATER THAN 1/4 MILE LONG
ROADSIDE FENCING MORE THAN 1/4 MILE IN LENGTH

PROJECTS THAT WILL DEFINITELY EXPAND THE CLEARED AREA ASSOCIATED WITH THE ROAD-POSSIBLE AFFECT

NEW ROAD PROJECTS

WIDENING, REALIGNING OF ROAD PROJECT
VEGETATION CLEARING MORE THAN 50 FEET OUT FROM CENTERLINE

APPENDIX E
MaineDOT Lynx Impact Review Form

Date:	Reviewer:
Project PIN:	
Town:	
Brief Description of Project Scope:	

1. Is the project a small scale project that will not increase the posted speed of the road or the cleared area associated with the road? (See project type list)

*If Yes, there is no effect on lynx.
If No, go to 2.*

2. Biological Data Review
Hoving (2001) Probability of Lynx occurrence:
Robinson (2006) Hare Density:
IFW lynx occurrence data (telemetry/sightings/track surveys):
Other Data:

Based on this information, does the project occur in or adjacent to suitable habitat or lie between blocks of suitable habitat or bisect potentially suitable habitat?

*If No, the project is not likely to adversely affect lynx. Proceed with informal consultation.
If Yes, go to 3.*

3. Project Review
From GIS evaluation, is the project:
Heavily influenced by residential, commercial, or concentrated, recreational activity?
Isolated from other areas of suitable habitat by residential, commercial, or concentrated recreational activity?

*If Yes to any of these, the project is not likely to adversely affect lynx. Proceed with informal consultation
If No, go to 4.*

4. Will the project:
Establish a new highway?
Increase the existing cleared area associated with the road, the posted speed, or the traffic volume of the road?
Remove cover adjacent to roadway?
Increase the barrier effect of the roadway by widening the travel corridor to greater than 100ft, or installing vertical barriers (fences) for more than ¼ mile?

If Yes to 4 and No to 3, project is likely to adversely affect lynx. Proceed with formal consultation.

Appendix B-5
FHWA Letter Regarding Essential Fish
Habitat Delegation to MaineDOT Dated
August 28, 2012



U.S. Department
of Transportation
**Federal Highway
Administration**

Maine Division

August 28, 2012

40 Western Avenue,
Augusta, ME 04330
207-622-8350
207-626-9133

In Reply Refer To:
HDA-ME

John Bullard
Regional Administrator
NOAA Fisheries NERO
55 Great Republic Drive
Gloucester, MA 01930-2276

Dear Mr. Bullard:

In accordance with 50 CFR Part 600, the Federal Highway Administration (FHWA) has legal responsibility for complying with Sections 305(b)(2) and 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Fisheries Service (NMFS) regulations permit the lead Federal agency to designate a non-Federal representative to conduct Essential Fish Habitat (EFH) consultations with NMFS under 50 CFR 600.920(c).

This letter serves to designate the Maine Department of Transportation (MaineDOT) as the non-Federal representative for EFH consultation for the Federal-Aid Highway Program in Maine. Based on the necessity of maintaining a central contact point for NMFS, and to incorporate the highest standards of quality for performance of this work, the authority to conduct EFH consultations under 50 CFR 600.920(c) is granted exclusively to staff biologists working in the MaineDOT Environmental Office. These responsibilities cannot be delegated further.

Please continue to include FHWA on all EFH adverse effect correspondence. If you have any questions, please contact Cassandra Chase, Environmental Engineer, at (207) 512-4921 or by e-mail at cassandra.chase@dot.gov.

Sincerely,

Todd D. Jorgensen
Division Administrator

cc:
Ken Sweeney (e copy)
Judy Gates (e copy)

Appendix B-6

NOAA Fisheries Service Essential Fish Habitat Consultation Correspondence



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

DEC 14 2012

Ms. Judy Gates
Director, Environmental Office
Maine Department of Transportation
16 State House Station
Augusta, Maine 04333-0016

Re: Presque Isle Bypass, FHWA Project STP-6462(200)E

Dear Ms. Gates:

We have received your letter, dated November 29, 2012, requesting an Essential Fish Habitat (EFH) consultation with us for the Presque Isle Bypass project in the area of the Aroostook River and tributaries near Presque Isle, Maine. The proposed project involves construction of a new highway around Presque Isle, which would cross the Aroostook River and two tributaries. The Aroostook River has been identified as EFH for Atlantic salmon. You, as the designated non-federal representative, have requested an expedited EFH consultation in order for the Federal Highway Administration to complete its Final Environmental Impact Statement for the proposed project.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA) require federal agencies to consult with one another on projects such as this. Insofar as a project involves EFH, as this project does, this process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure. An EFH assessment must include, at a minimum, the following information: 1) a description of the proposed action; 2) an analysis of the potential adverse effects of the action on EFH and the managed species 3) the Federal agency's conclusions regarding the effects of the action on EFH; and 4) proposed mitigation, as appropriate. Other information that should be contained in the EFH assessment, as appropriate, includes: the results of on-site inspections to evaluate the habitat and site-specific effects; the views of recognized experts on the habitat or the species that may be affected; a review of pertinent literature and related information; and an analysis of alternatives to the action that could avoid or minimize the adverse effects on EFH.

We have received the EFH worksheet prepared by your agency for the proposed project. However, because this project will follow a design-build process, the specific design of the bypass and bridges has yet to be completed and the details of in-water work have not been identified. Because few details regarding the final highway alignment within the Aroostook River and tributaries, the footprint of the piers, bridge abutments, culverts, and the associated impacts to Atlantic salmon EFH are not available at this time, we have determined the EFH



assessment is incomplete. Such information would assist us in developing specific conservation recommendations that minimize impacts to fishery resources and habitats, while providing the

flexibility for you to carry out the construction of the proposed project. The uncertainty in the final design of the project and assessment of impact to our resources at this phase in the project is a concern to us, and complicates our ability to consult and provide effective conservation recommendations. We have previously expressed our concerns over the design-build process in letters to MEDOT November 9, 2011, (Martins Point Bridge Replacement), and MEDOT and the Federal Highway Administration on October 3, 2012, (Kennebec River Bridge Replacement).

According to the EFH worksheet, the proposed bridge structure over the Aroostook River would include two piers, which could be 20 feet by 60 feet, or approximately 2,400 square feet in total area in the river bottom. The use of cofferdams installed using vibratory hammers is proposed for the construction of the piers. The two bridge crossings over the tributaries involve installation of culverts and approximately 2,200 square feet of temporary impacts in the streams. This work involves rechanneling flows through a temporary channel to isolate the work area from moving water. The EFH assessment does not include details of the redirected stream flows during construction or if there will be any permanent relocation of the two streams.

Sediment plumes may be produced around the cofferdams during installation and removal, as well as other activities including construction of bridge abutments, installation of culverts, and construction of temporary stream channels. Silty sediments can lead to greater turbidity impacts than coarser materials which tend to settle more rapidly. High turbidity can impact fish species through greater expenditure of energy, gill tissue damage, and mortality (Johnson et al. 2008; Newcombe and Jensen 1996). Elevated suspended sediments have also been shown to disrupt the schooling behavior of migratory fish (Wildish and Power 1985; Chiasson 1993).

As noted in the EFH assessment, the Aroostook River is a migratory corridor for juvenile and adult Atlantic salmon. The EFH assessment included several best management practices (BMP) that you intend to incorporate in the construction design of the project, including reducing turbidity, working in the dry, and consideration of time of year windows. We note that the EFH assessment includes photographs of existing culverts that appear to be perched and inaccessible to fish during some hydrologic conditions (e.g., Route 167 crossing and Route 210 crossing). Improperly designed stream crossings can block fish and aquatic organism passage in a variety of ways, including: (1) perched culverts constructed with the bottom of the structure above the level of the stream effectively act as a dam and physically block passage; and (2) hydraulic barriers to passage are created by undersized culverts which constrict the flow and create excessive water velocities (Evans and Johnston 1980; Belford and Gould 1989; Furniss et al. 1991; Jackson 2003). Smooth-bore liners made from high density plastic greatly increase flow velocities through the passage. Conversely, oversized culverts with large, flat bottom surfaces reduce water depth (Haro et al. 2004). Under such conditions, migrating fish are unable to reach spawning habitat. Although not specifically included in the MEDOT's minimization measures list, we recommend that all replacement or new culverts be designed with features that do not prevent or inhibit fish movement.

Essential Fish Habitat

Section 305(b)(2) of the MSA requires all federal agencies to consult with us on any action authorized, funded, or undertaken by that agency that may adversely affect EFH. The area of proposed project on the Aroostook River has been identified as EFH for Atlantic salmon under the MSA. Because this project will follow a design-build process, the specific design and construction of the bypass and bridges has yet to be completed, and as a result, a complete assessment of the effects to EFH for Atlantic salmon is lacking. Nonetheless, we are obligated by our regulations to provide our EFH conservation recommendations using the best scientific information available. A lack of site-specific information for a project requires that we take a risk-averse approach in the issuance of our EFH conservation recommendations in order to ensure protection of fishery resources and habitats. We recommend pursuant to Section 305(b)(4)(A) of the MSA that you adopt the following EFH conservation recommendations:

1. To protect migrating juvenile and adult Atlantic salmon, all in-water work generating turbidity and sedimentation should be conducted during low-flow conditions between July 15 and September 30 of any year. In-water work may be conducted at any time within coffer dams or similar silt-containment structures, provided these structures are installed and removed during the recommended work window.
2. All new and replaced culverts should be designed in a manner not to interfere with the passage of fish and other aquatic organisms. Structures should replicate natural stream channel, flow conditions, substrates, and channel grade. Perched culverts should be avoided.

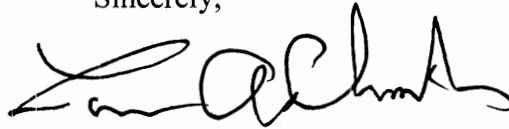
Please note that Section 305(b)(4)(B) of the MSA requires you to provide us with a detailed written response to these EFH conservation recommendations, including a description of measures you have adopted for avoiding, mitigating, or offsetting the impact of the project on EFH. In the case of a response that is inconsistent with our recommendations, Section 305(b)(4)(B) of the MSA also indicates that you must explain your reasons for not following the recommendations. Included in such reasoning would be the scientific justification for any disagreements with us over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects pursuant to 50 CFR 600.920(k).

Please also note that a distinct and further EFH consultation must be reinitiated pursuant to 50 CFR 600.920(1) if new information becomes available or the project is revised in such a manner that affects the basis for the above EFH conservation recommendations. Should details of the project's scope and construction methods result in new or increased impacts to our trust resources beyond those you have identified in the EFH worksheet, reinitiation of the EFH consultation and modification to our EFH conservation recommendations may be necessary. For example, information obtained during the design phase of the project relevant to increases in the footprint of impacts to the Aroostook River and tributaries, construction methods that may affect turbidity and noise, and seasonal construction windows, could affect the basis of our EFH conservation recommendations.

Conclusions

In summary, we recommend that in-water work generating turbidity and sedimentation should be restricted to between July 15 and September 30 of any year. In-water work may be conducted at any time within coffer dams or similar silt containment structures, provided these structures are installed during the recommended work window. All culverts associated with the project should be designed to allow the passage of fish and other aquatic organisms. We look forward to your response to our EFH conservation recommendations. Related correspondence on EFH should be addressed to the attention of Michael Johnson at mike.r.johnson@noaa.gov, or by phone at (978) 281-9130.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Chiarella", written in a cursive style.

Louis A. Chiarella
Assistant Regional Administrator
for Habitat Conservation

cc: Mary Colligan/Max Tritt, PRD
Brian Swan/Oliver Cox, ME DMR
Jay Clement, USACE
Steve Shepard, USFWS
Richard Bostwick, MEDOT

References

- Belford DA, Gould WR. 1989. An evaluation of trout passage through six highway culverts in Montana. *North American Journal of Fisheries Management* 9(4):437-45.
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STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

December 17, 2012

Louis A. Chiarella
Acting Assistant Regional Administrator
Habitat Conservation Division , National Marine Fisheries Service
Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930-2276

Subject: Maine Department of Transportation, Presque Isle Route 1 Bypass Project,
Aroostook County, Maine

Dear Mr. Chiarella:

The Federal Highway Administration (FHWA) and Maine Department of Transportation (MaineDOT) received your letter with Essential Fish Habitat (EFH) Conservation Recommendations, dated December 14, 2012 for the proposed new Bypass around Presque Isle, Maine in response to the EFH Assessment for expedited consultation. In accordance with Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and 50 CFR 600.920(k), we are providing you with responses to your EFH Conservation Recommendations below:

1. "To protect migrating juvenile and adult Atlantic salmon, all in-water work generating turbidity and sedimentation should be conducted during low-flow conditions between July 15 and September 30 of any year. In-water work may be conducted at any time within coffer dams or similar silt-containment structures, provided these structures are installed and removed during the recommended work window"

Response: This conservation recommendation timing restrictions will be used for all in-water work that is anticipated to generate sedimentation and turbidity.

2. "All new and replaced culverts should be designed in a manner not to interfere with the passage of fish and other aquatic organisms. Structures should replicate natural stream channel, flow conditions, substrates, and channel grade. Perched culverts should be avoided."

Response: This conservation recommendation will be implemented. MaineDOT intends to design the crossing structures as described in the submitted EFH assessment, which includes designing structures with natural substrate that will pass species within the waterway

We realize that there is minimal information for this assessment and consultation. The data collected so far for this project is at a detail that is required for analysis for an

Environmental Impact Statement (EIS) developed under the National Environmental Policy Act (NEPA). Once the Record of decision is issued for this project, final design activities can begin and more design detail will be forthcoming. This may require that, pursuant to 50 CFR 600.920(1), re-initiation of consultation occur as we get more design detail and the project is revised in such a manner that it affects the basis for the above EFH conservation recommendations

MaineDOT has not established a construction schedule to date nor has it determined what contracting method the project will be used.

We thank you for your recommendations and quick turnaround on this project. If you have any further questions, contact Richard Bostwick of MaineDOT at 207-592-3904 or Cassandra Chase of FHWA at 207-512-4921.

Sincerely,

A handwritten signature in cursive script that reads "Judy C. Gates". The signature is written in dark ink on a light-colored background.

Judy Gates
Director, Environmental Office
Maine Department of Transportation
Augusta, Maine, 04333

CC:

Cassandra Chase FHWA
Mike Johnson, NOAA

Appendix B-7
Maine Department of Inland Fisheries and
Wildlife Letter
Dated July 26, 2010



JOHN E. BALDACCI
GOVERNOR

DEPARTMENT OF
INLAND FISHERIES & WILDLIFE
284 STATE STREET
41 STATE HOUSE STATION
AUGUSTA, MAINE

ROLAND MARTIN
COMMISSIONER

July 26, 2010

Ms. Anne E. Podkaminer
Environmental Planner, VHB
101 Walnut Street
Watertown, MA 02472

Ref: Presque Isle Bypass related to species of special concern (Pygmy Snaketail) *Ophiogomphus howei*

Dear Anne:

After further consultation with the Maine Department of Inland Fisheries and Wildlife (MDIFW) Reptile, Amphibian, and Invertebrate group leader, Phillip deMaynadier, evaluation of our significant wildlife database, and completion of a field visit on July 19, 2010 the MDIFW recommends the **blue** bypass option, the one presently mapped the most easterly and furthest downstream of the three bypass options.

This bypass recommendation was chosen for the reasons listed below:

- All three bypass options intersect high potential habitat for the Pygmy Snaketail dragonfly based on a confirmed location upstream and the Department's science-based mapping protocols for adjacent potential habitat (see attached). The Pygmy Snaketail dragonfly is rare and listed as a species of Special Concern in the State of Maine. Maintaining good water quality and relatively coarse (gravel or sand) substrates with little sedimentation is important for conservation of this dragonfly. Stream channel modifications, increased sedimentation, shoreline modifications, and degradation of adjacent riparian vegetation is likely to adversely impact this species.
- Inland Waterfowl and Wading Bird Habitat (IWWH 205270), although mapped by MDIFW as indeterminate intersects the middle yellow corridor option.
- As verified through field visit, the most easterly bypass option in **blue**, and the furthest downstream option, has the least river bank slope and presently offers a significant forested buffer thus reducing velocity and intercepting the greatest amount of sedimentation from future rain and disturbance events.

Additionally, in order to conserve aquatic larval habitat and riparian adult habitat for the rare Pygmy Snaketail dragonfly, MDIFW recommends a 100 meter riparian buffer be maintained or enhanced adjacent to the Arrostook River on both north and south sides of the recommended bypass. This riparian buffer needs to be maintained in perpetuity for the entire linear extent of river shore that falls within the mapped potential habitat (attached). This can be achieved in the following ways:

1. Where there is existing riparian forested buffer of 100 meters or greater, these should be maintained, and;
2. Where the existing riparian forested buffer is compromised by disturbance areas within 100 meters, the buffer should be protected and left to develop into a natural vegetative buffer through succession, and;
3. No new roads or trails should be permitted within the 100 meter buffer, other than the existing ATV trail system, and;
4. The riparian buffer needs to be maintained in perpetuity within the full extent of the mapped potential habitat zone, for which fee acquisition or conservation easements may be necessary.

Sincerely,

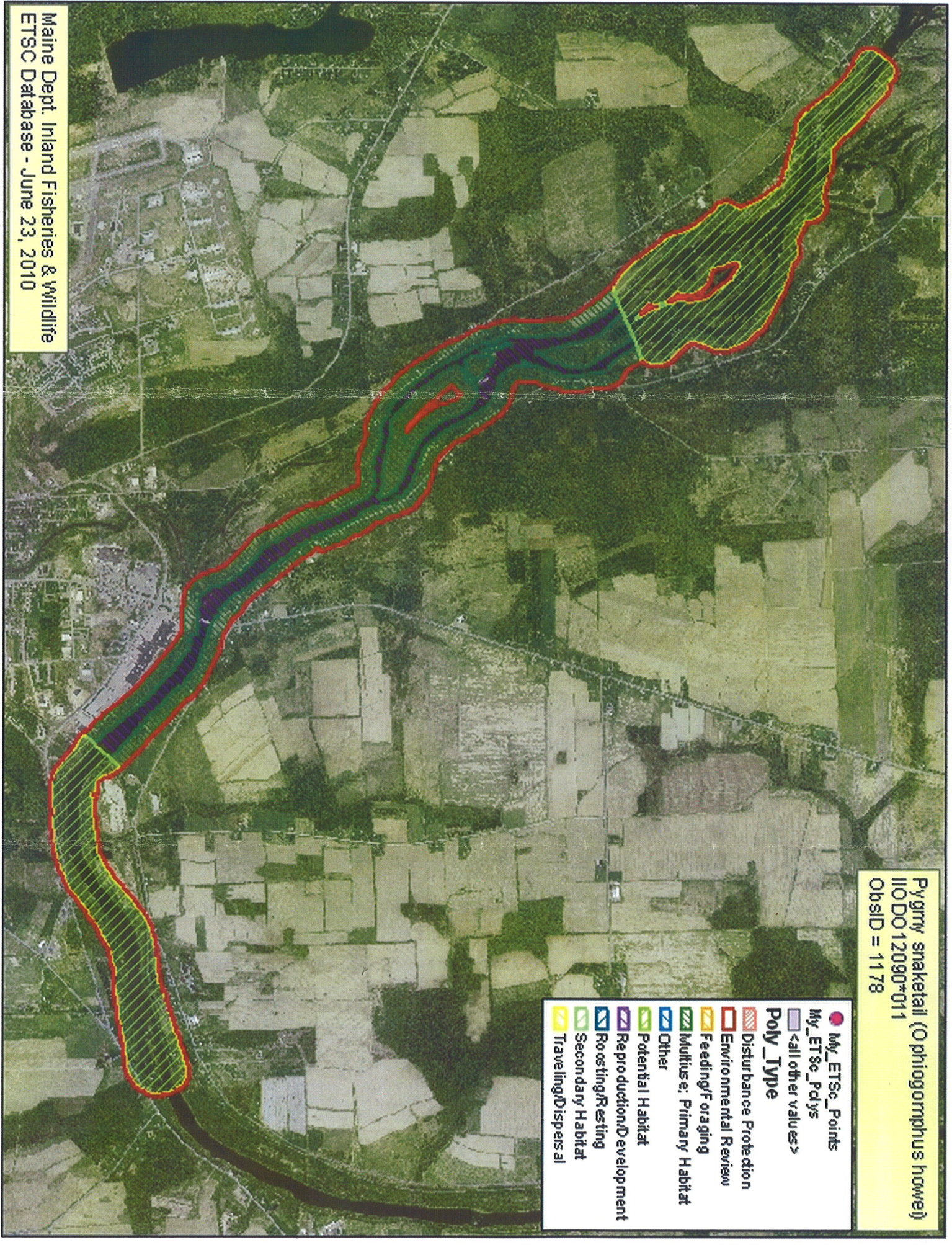
Richard Hoppe

MDIFW, Regional Wildlife Biologist
PO Box 447
Ashland, ME 04732

Cc: Ms. Judy Gates
Mr. Richard Bostwick

Pygmy snaketail (*Ophiogomphus howei*)
 IIO DO 12090*011
 ObsID = 1178

- My_ETSc_Points
- My_ETSc_Polys
- <all other values>
- Poly_Type**
- Disturbance Protection
- Environmental Review
- Feeding/Foraging
- Multise; Primary Habitat
- Other
- Potential Habitat
- Reproduction/Development
- Roosting/Resting
- Secondary Habitat
- Traveling/Dispersal



Maine Dept. Inland Fisheries & Wildlife
 ETSC Database - June 23, 2010

Appendix B-8

NRCS Farmland Conversion Impact

Correspondence



Vanasse Hangen Brustlin, Inc.

March 9, 2012

Ref: 06520.02

Darol Wilson
District Conservationist
Natural Resources Conservation Service
735 Main Street, Suite #3,
Presque Isle, ME 04769

Re: Presque Isle Bypass
Farmland Conversion Impact Rating

Dear Mr. Wilson,

FHWA and MaineDOT are proposing the Presque Isle Bypass in Presque Isle, Maine. Please see the attached NRCS Farmland Conversion Impact Rating for the Presque Isle Bypass Alignment Options and the accompanying table and figures.

Table 1 identifies the farmland impacts shown on each figure. Farmland impacts are broken down into three categories in this table; directly impacted farmland, indirectly impacted farmland (farmland rendered not farmable by the proposed right of way purchase), and potentially affected farmland (farmland which may be rendered not farmable by the proposed right of way purchase). Figures 1 through 9 show the three proposed alignment options for the proposed project in detail. Figure 10 shows all three alignment options in their entirety for context purposes.

Farmland impacts for this impact rating were determined by identifying farmland on aerial images and measuring the acres of farmland impact for each alignment option. If you have any questions or would like additional information, please contact me at (617) 924-1770 ext. 1537.

Very truly yours,

VANASSE HANGEN BRUSTLIN, INC.


Marianne Iarossi
Environmental Planner

CC: Lisa Standley, VHB, Inc.
Russell Charette, P.E., MaineDOT

U.S. Department of Agriculture

FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request 3/9/12			
Name Of Project Presque Isle Bypass		Federal Agency Involved Federal Highway Administration			
Proposed Land Use Roadway		County And State Aroostook, Maine			
PART II (To be completed by NRCS)		Date Request Received By NRCS 3/12/12			
Does the site contain prime, unique, statewide or local important farmland? <i>(If no, the FPPA does not apply -- do not complete additional parts of this form).</i>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Acres Irrigated 3000	Average Farm Size 301
Major Crop(s) Potato, Grain and Broccoli rotated	Farmable Land In Govt. Jurisdiction Acres: 2,259,969 % 57	Amount Of Farmland As Defined in FPPA Acres: 1,404,369 % 36			
Name Of Land Evaluation System Used Aroostook County Land Evaluation	Name Of Local Site Assessment System Presque Isle- Aroostook	Date Land Evaluation Returned By NRCS 4/5/12			
PART III (To be completed by Federal Agency)	Alternative Site Rating				
		Site A	Site B	Site C	Site D
	A. Total Acres To Be Converted Directly	264.0	289.0	212.7	
	B. Total Acres To Be Converted Indirectly	15.0	6.4	29.1	
C. Total Acres In Site	279.0	295.4	241.8	0.0	
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland	154.0	136.0	97.0		
B. Total Acres Statewide And Local Important Farmland	109.0	115.0	87.0		
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted	0.0	0.0	0.0		
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value	13.7	13.7	13.7		
PART V (To be completed by NRCS) Land Evaluation Criterion					
Relative Value Of Farmland To Be Converted (Scale of 0 to 100 Points)	89	80	82	0	
PART VI (To be completed by Federal Agency)					
Site Assessment Criteria (These criteria are explained in 7 CFR 658.5(b))	Maximum Points				
1. Area In Nonurban Use	15	15	15	15	
2. Perimeter In Nonurban Use	10	10	10	10	
3. Percent Of Site Being Farmed	20	13	11	8	
4. Protection Provided By State And Local Government	20	20	20	20	
5. Distance From Urban Builtup Area	0	0	0	0	
6. Distance To Urban Support Services	0	0	0	0	
7. Size Of Present Farm Unit Compared To Average	10	0	0	0	
8. Creation Of Nonfarmable Farmland	25	1	0	9	
9. Availability Of Farm Support Services	5	5	5	5	
10. On-Farm Investments	20	4	4	4	
11. Effects Of Conversion On Farm Support Services	25	0	0	0	
12. Compatibility With Existing Agricultural Use	10	1	1	1	
TOTAL SITE ASSESSMENT POINTS	160	69	66	72	0
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)	100	89	80	82	0
Total Site Assessment (From Part VI above or a local site assessment)	160	69	66	72	0
TOTAL POINTS (Total of above 2 lines)	260	158	146	154	0

Site Selected: 7

Date Of Selection 4/5/12

Was A Local Site Assessment Used?
Yes No

Reason For Selection: As part of the NEPA review process, an extensive alternatives analysis was conducted, which considered federally regulated environmental resources and transportation benefits to the region. Alignment Option 7 has been selected by MaineDOT as the Preferred Alternative, and by the US ACOE as the LEDPA. As a part of this analysis, and as indicated above, it has been determined that Alignment Option 7 requires the least farmland acres to be directly converted, and scored in the middle for total points based on relative value of farmland and total site assessment points.

Signature of Person Completing this Part: Marianne Jaross 4/5/2012

(See Instructions on reverse side)

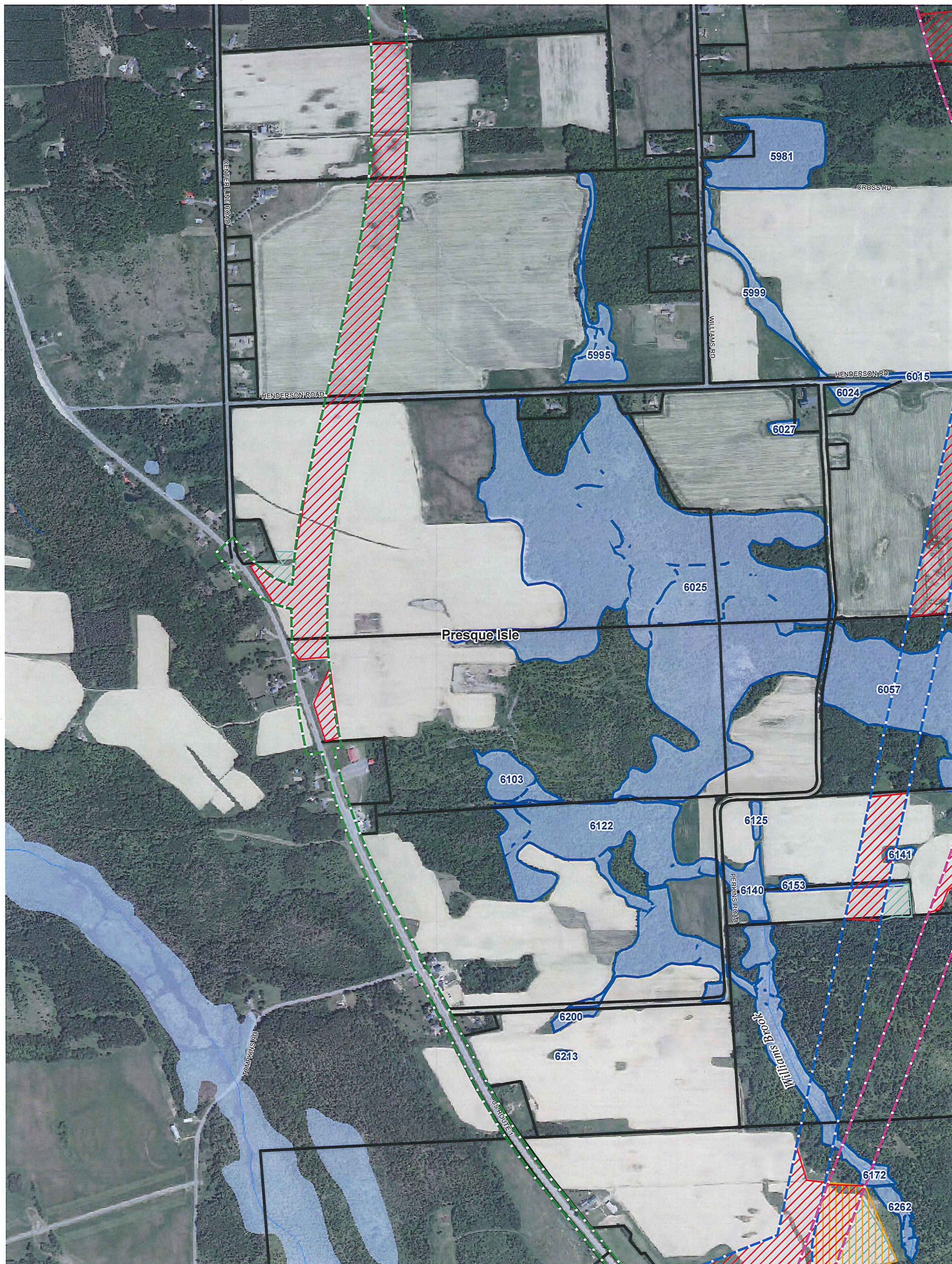
Form AD-1006 (10-83)

Table 1
Farmland Impact by Alignment Option (acres)

Figure Number	Alignment 4B			Alignment 6			Alignment 7		
	Directly Impacted Farmland ¹	Indirectly Impacted Farmland ²	Potentially Affected Farmland ³	Directly Impacted Farmland	Indirectly Impacted Farmland	Potentially Affected Farmland	Directly Impacted Farmland	Indirectly Impacted Farmland	Potentially Affected Farmland
1	62.8	5.7	0	72.5	3.1	9.1	60.8	15.1	0
2	44.7	0	0	50.6	1.9	0	45.7	4.8	2.3
3	0	0	0	57.2	0	0	31.8	0	3.3
4	0	0	0	56.2	0	14.9	35.9	3.7	0
5	0	0	0	33.0	1.4	0	26.5	1.6	5.0
6	0	0	0	19.5	0	9.4	12.0	3.9	0
7	74.4	4.8	0	0	0	0	0	0	0
8	59.3	3.5	0	0	0	0	0	0	0
9	22.8	1.0	0	0	0	0	0	0	0
Total	264.0	15.0	0	289.0	6.4	33.4	212.7	29.1	10.6

Source: Vanesse Hangen Brustlin, 2012.

- 1 Farmland impacted by the proposed 300-foot right-of-way to be purchased by MaineDOT.
- 2 Farmland which will be deemed unfarmable by the proposed right-of-way purchase.
- 3 Farmland which may be impacted by the proposed right-of-way purchase.

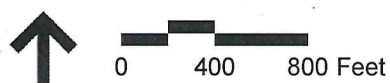


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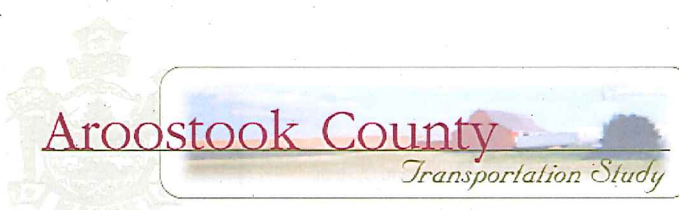
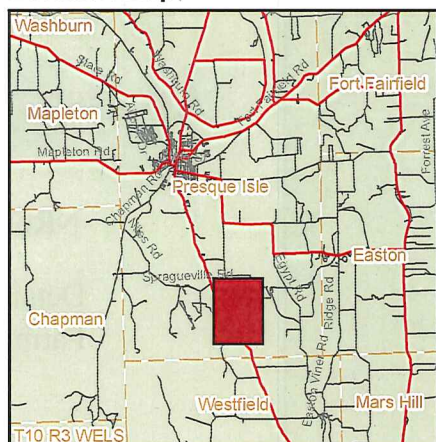
**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

- Wetlands
- Wetland System
- Parcels

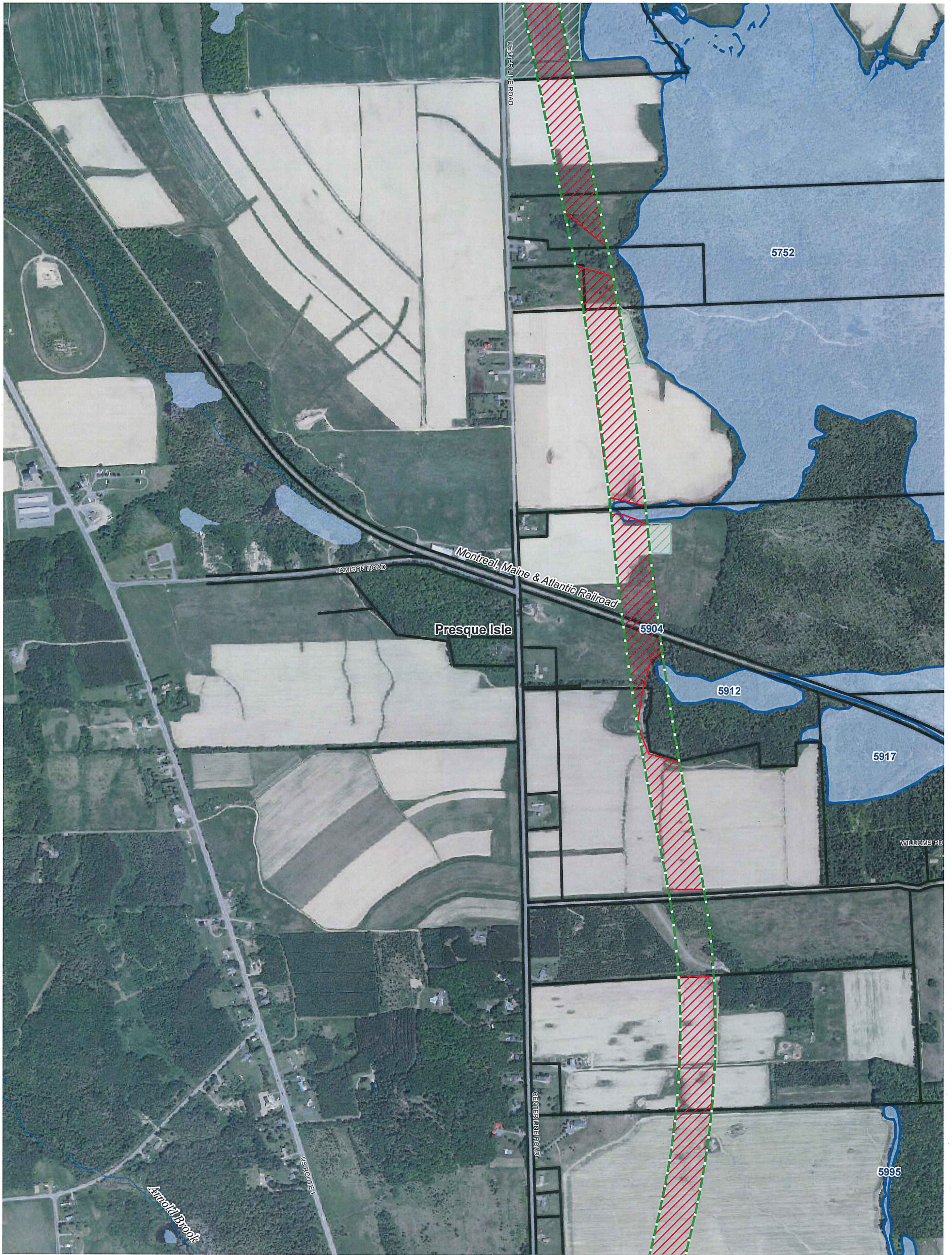


Location Map



NRCS Figure 1

Detailed View of
Farmland Impacts



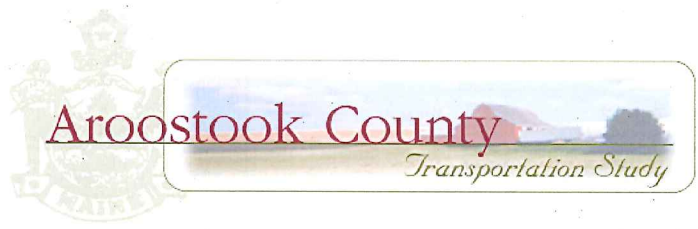
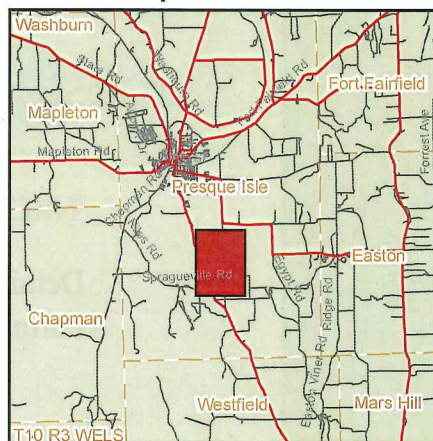
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**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

- Wetlands
- Wetland System
- Parcels

Location Map



NRCS Figure 2







Detailed View of
Farmland Impacts





Legend

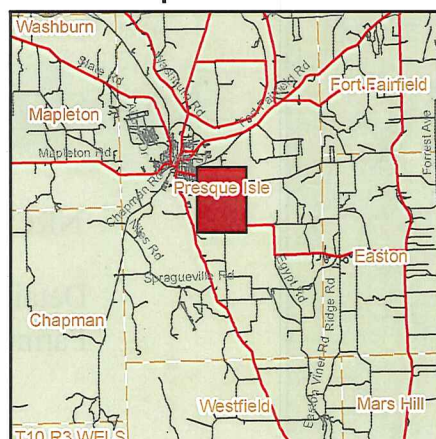
**Alignment Options
(300-foot right-of-way)**

-  Alignment Option 4B
-  Alignment Option 6
-  Alignment Option 7
-  Directly Impacted Farmland
-  Indirectly Impacted Farmland
-  Potentially Impacted Farmland

-  Wetlands
-  Wetland System
-  Parcels

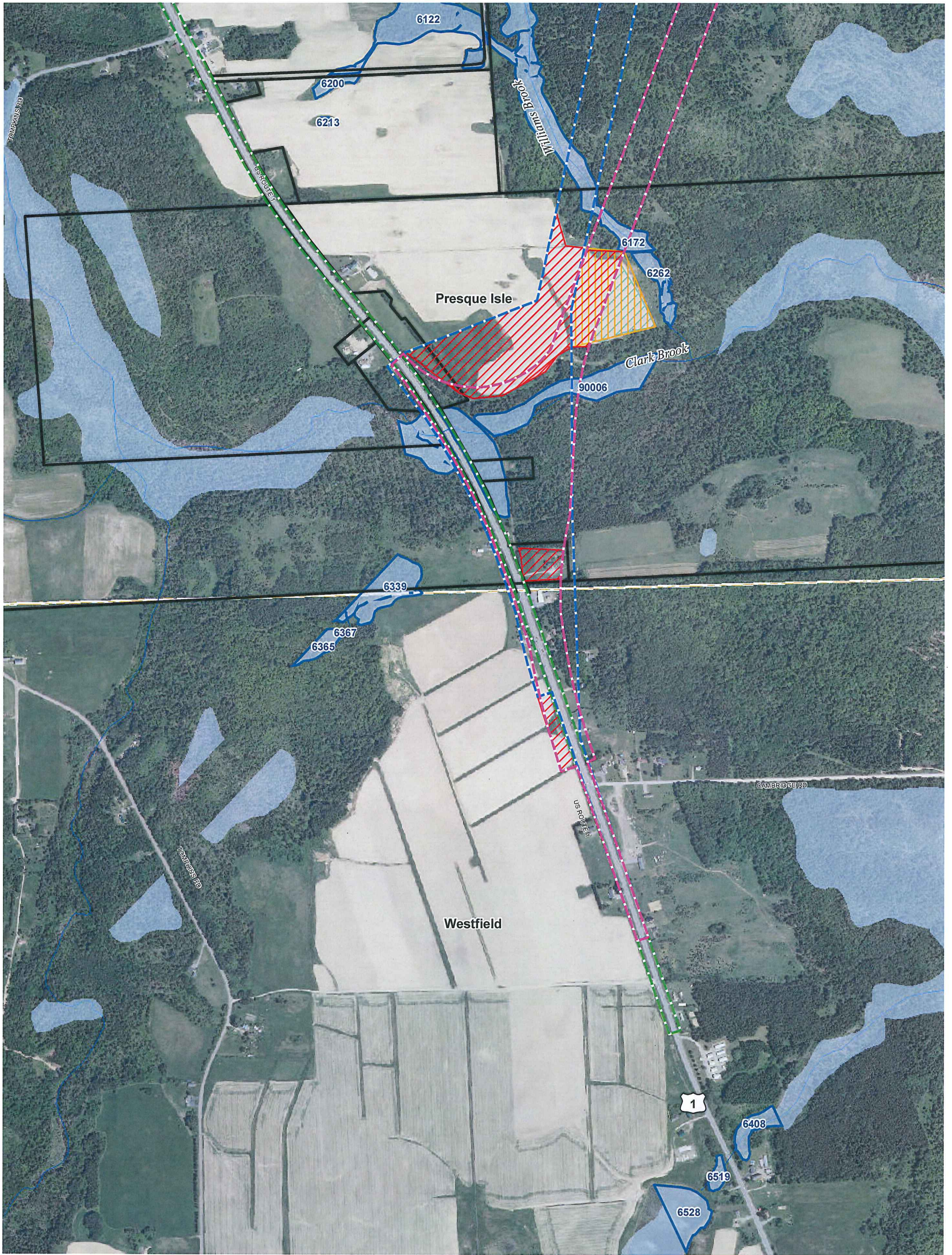


Location Map



NRCS Figure 3

Detailed View of
Farmland Impacts

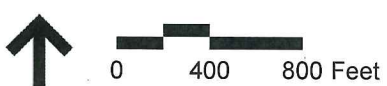


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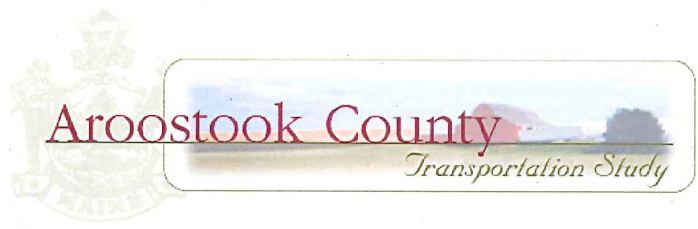
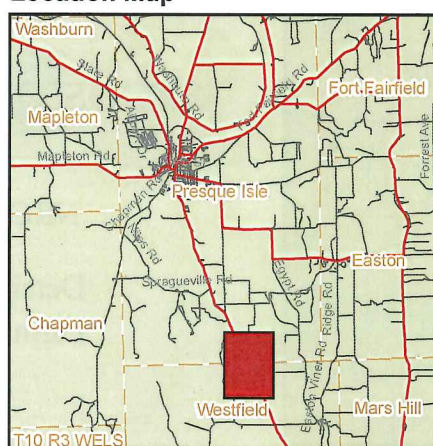
**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

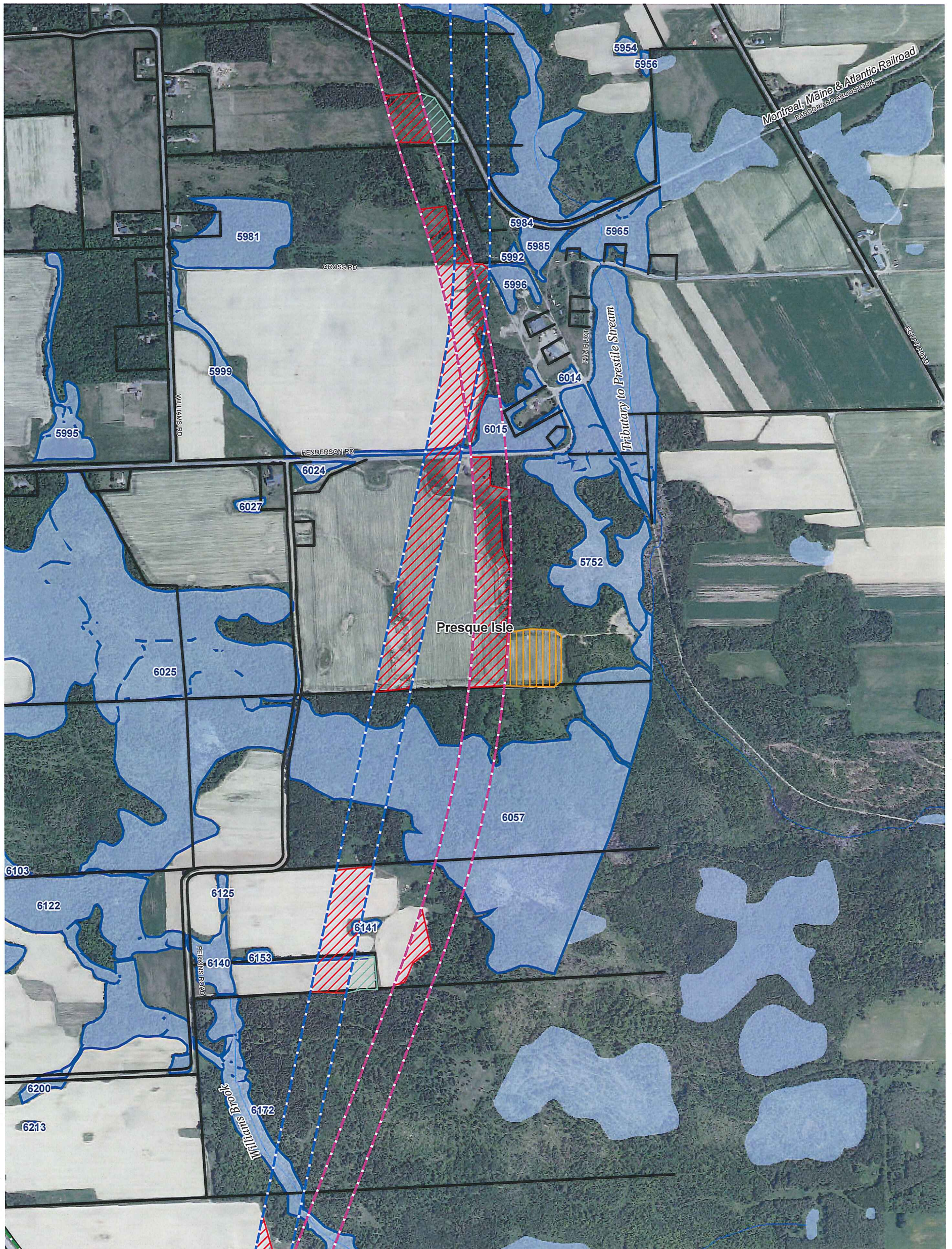
- Wetlands
- Wetland System
- Parcels



Location Map



NRCS Figure 4
Detailed View of
Farmland Impacts



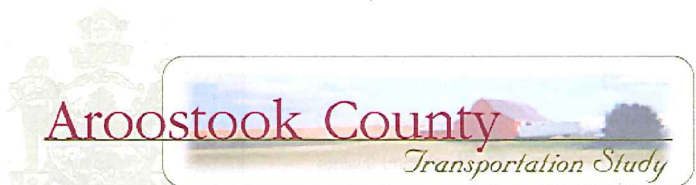
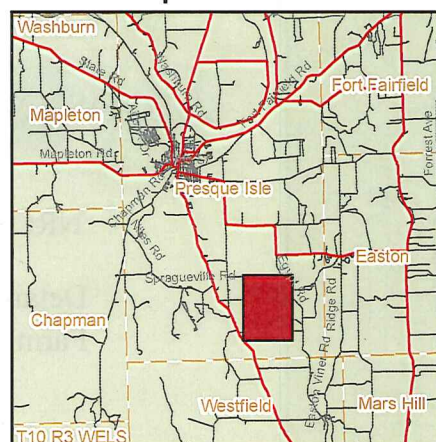
Legend

**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

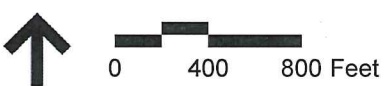
- Wetlands
- Wetland System
- Parcels

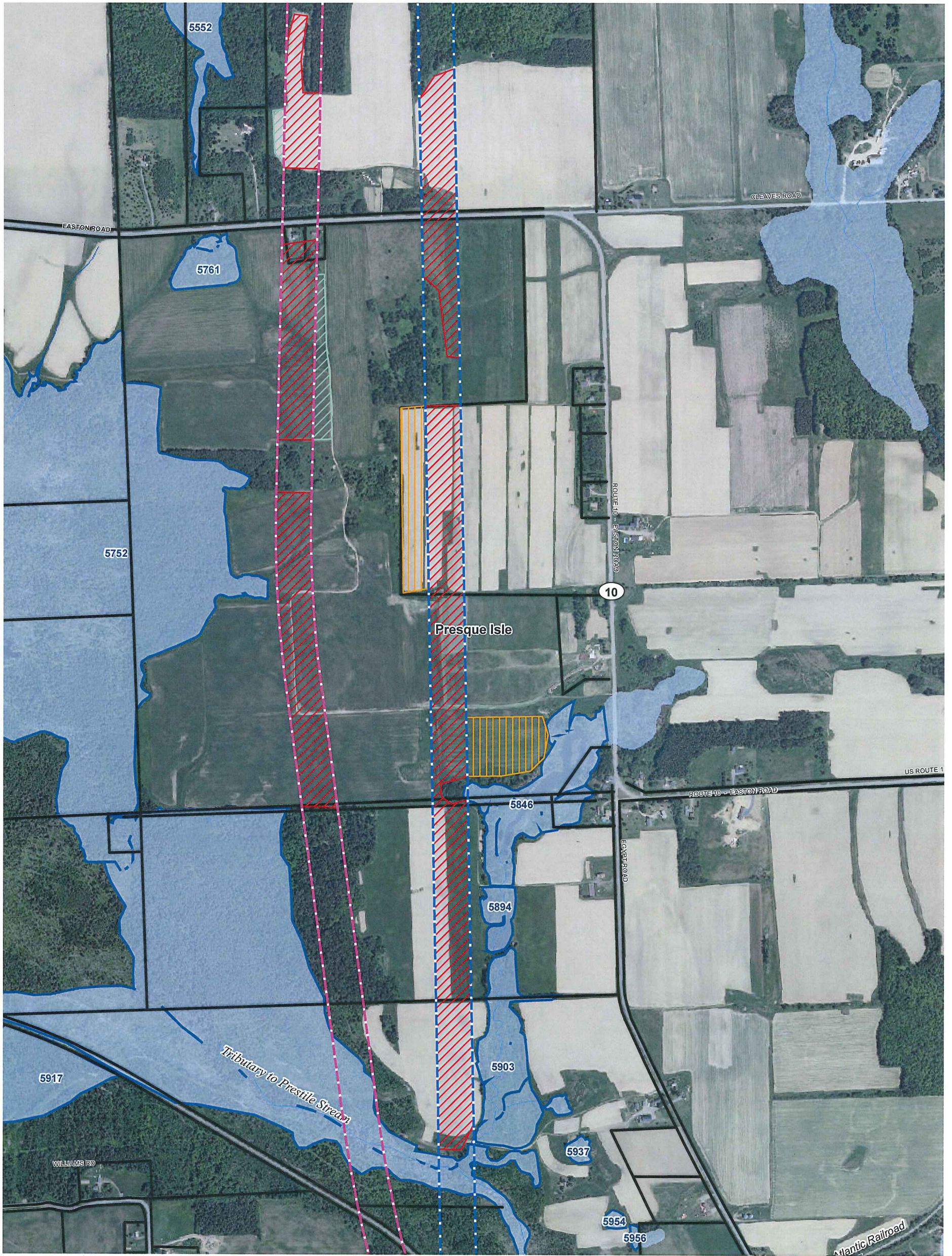
Location Map



NRCS Figure 5

Detailed View of
Farmland Impacts



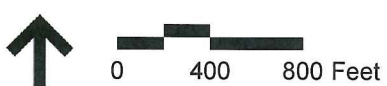


Legend

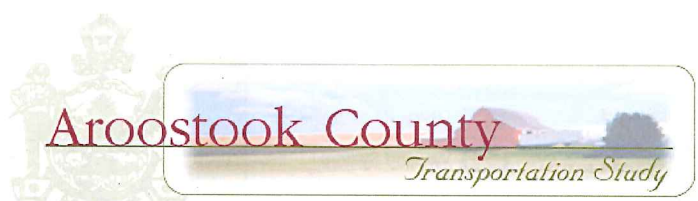
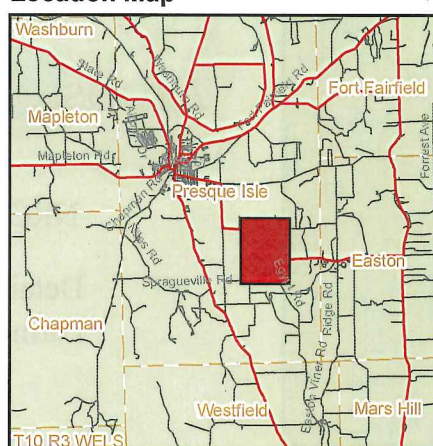
**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

- Wetlands
- Wetland System
- Parcels



Location Map



NRCS Figure 6
Detailed View of
Farmland Impacts



Legend

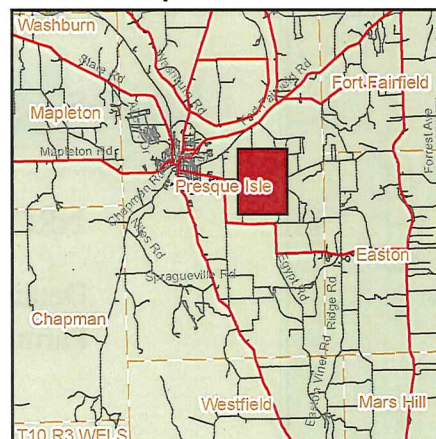
**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

- Wetlands
- Wetland System
- Parcels

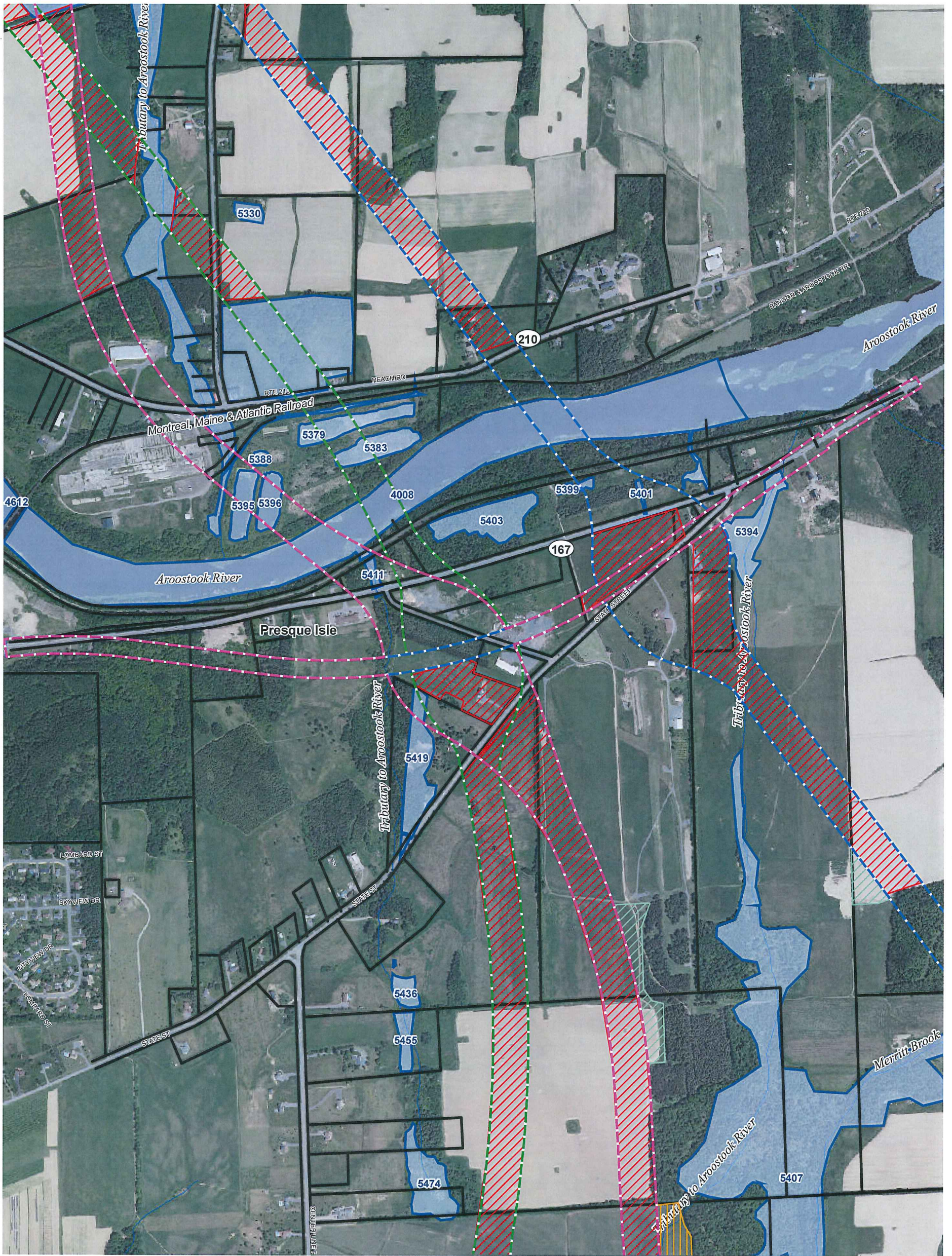


Location Map



NRCS Figure 7

Detailed View of
Farmland Impacts



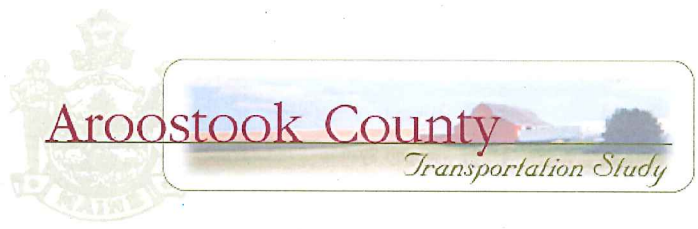
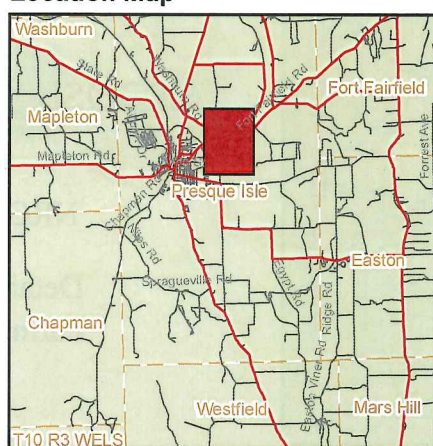
Legend

**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

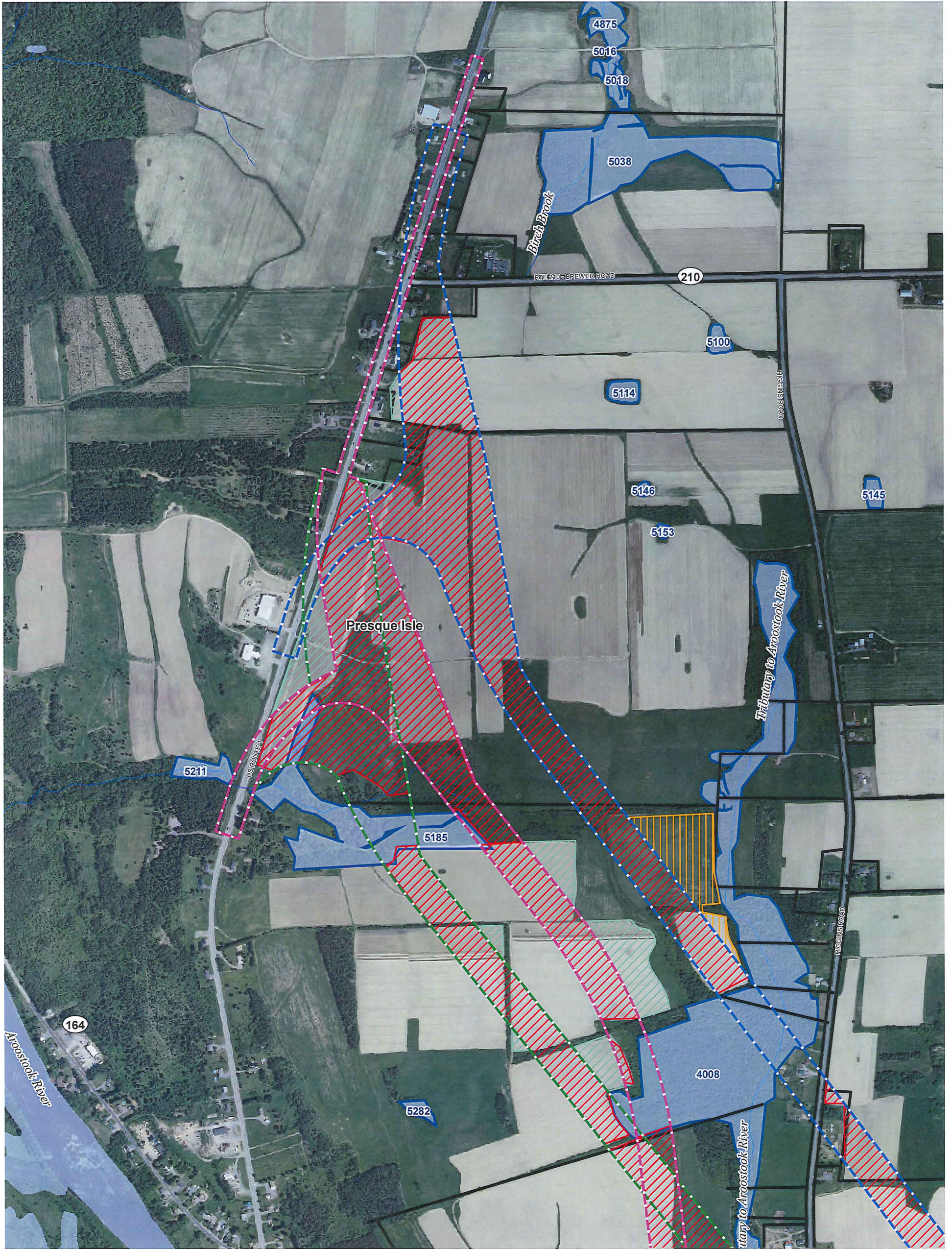
- Wetlands
- Wetland System
- Parcels

Location Map



NRCS Figure 8
Detailed View of
Farmland Impacts





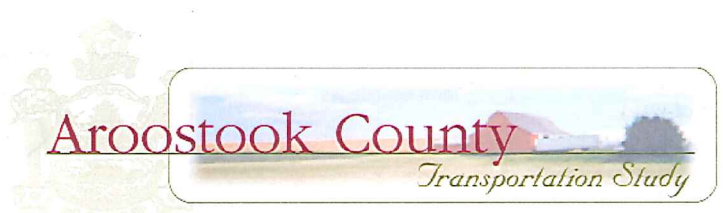
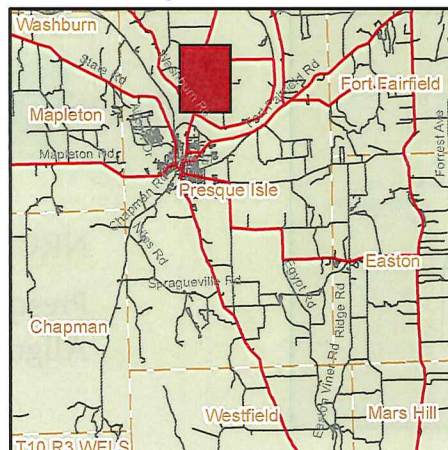
Legend

**Alignment Options
(300-foot right-of-way)**

- Alignment Option 4B
- Alignment Option 6
- Alignment Option 7
- Directly Impacted Farmland
- Indirectly Impacted Farmland
- Potentially Impacted Farmland

- Wetlands
- Wetland System
- Parcels

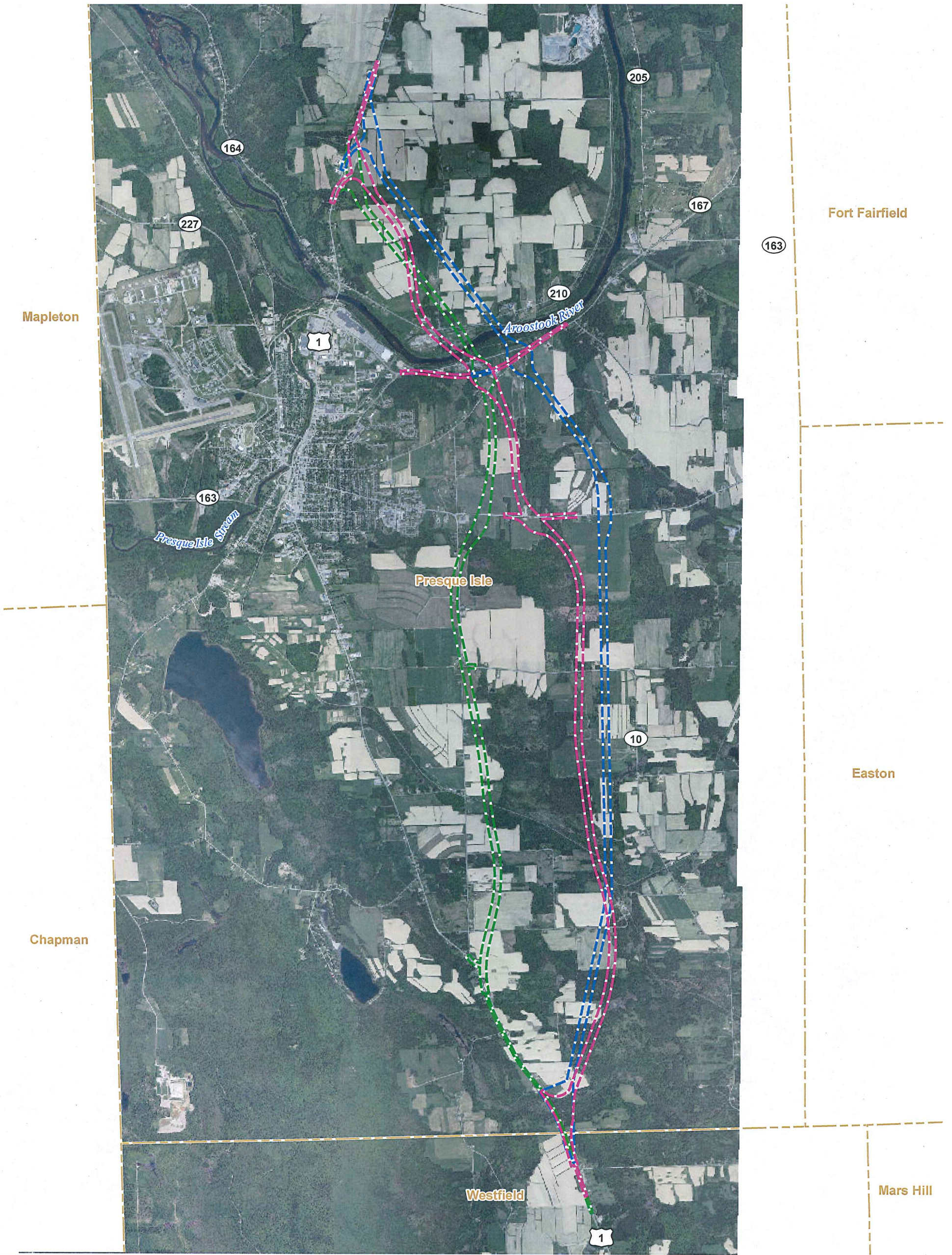
Location Map



NRCS Figure 9

Detailed View of
Farmland Impacts

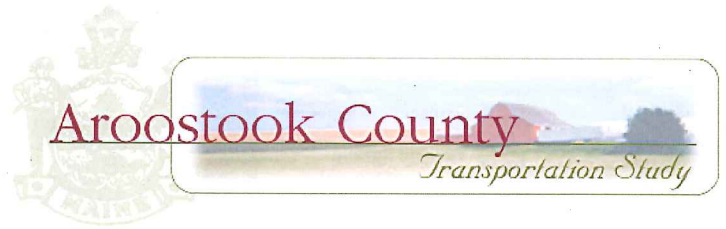




- Legend**
Alignment Options (300-foot right-of-way)
- Alignment Option 4B
 - Alignment Option 6
 - Alignment Option 7

Town Boundaries

Locus



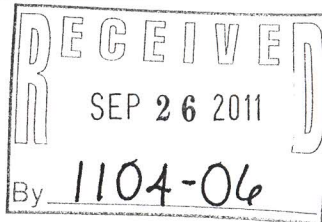
NRCS Figure 10
Presque Isle Bypass
Alignment Options



Appendix B-9 Maine Historic Preservation Commission Correspondence Dated September 26, 2011

STATE OF MAINE

Memorandum



Date: September 26, 2011

To: Earle G. Shettleworth, Jr., MHPC
From: David Gardner, Maine DOT/ENV
Subject: Section 106 request for concurrence
Project: Presque Isle Bypass, PIN 6462.10
Scope: Bypass construction

The MaineDOT has reviewed this project pursuant to the Maine Programmatic Agreement (PA) and Section 106 of the National Historic Preservation Act of 1966, as amended.

The project consists of construction of the Presque Isle Bypass, with several alignment options presented in the Final Environmental Impact Statement. The Federal action for this project is Federal funding.

In accordance with 36 CFR Part 800.4, the following identification efforts of historic properties were made:

- 800.4(a) (1) - The Area of Potential Effect (APE) includes properties/structures adjacent to the proposed highway and within the project limits. The project limits are defined by the proposed highway alignment and the immediately adjacent area. Properties/structures adjacent to this project limit are considered to be within the APE.
- 800.4(a) (2) - Review of existing information consisted of researching the National Register and MHPC survey databases. The Maine Historic Preservation Commission Archaeological staff has also reviewed the undertaking. Further survey is required on all 3 alignments.
- 800.4(a) (3) - The city of Presque Isle and town of Westfield were contacted via letter and asked to comment on knowledge of, or concerns with, historic properties in the area, and any issues with the undertaking's effect on historic properties. The towns were also requested to provide information regarding local historic societies or groups. MaineDOT did not receive anything from the towns regarding historic properties based on our initial memo. Comments during the public meeting process were received regarding the Main Street option, which is no longer an alternative, but no other comments were received.
- 800.4(a) (4) - Letters outlining project location and scope were sent to the 4 federally recognized Tribes in Maine.
- 800.4(c) - The MaineDOT conducted historic architectural surveys within the APE to determine if properties met National Register criteria. Several National Register-eligible properties were identified. Maine Historic Preservation Commission Archaeological staff also reviewed this undertaking and archaeological consultation is on-going.

In accordance with 36 CFR Part 800.4(d), *the MaineDOT has determined that historic architectural properties will be adversely affected by alignment 4B and alignment 6. Alignment 7 would have no effect on historic properties.*

There is no effect to historic and prehistoric archaeological sites on Alignment 7 preferred. Alignments 4B and 6 would require additional historic and/or prehistoric archaeological study.

Alignment 7 - No effect

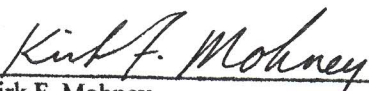
Alignment 4B - Adverse effect

Alignment 6 - Adverse effect

In accordance with the PA and 36 CFR Part 800, please reply with your concurrence or objection to this determination of effect within 30 days.

Please contact me at David.Gardner@maine.gov or 592-2471 if you have any questions. Thank you.

cc: CPD e-file
enc: 8.3.11 concurrence memo
9.23.11 archaeology memo

CONCUR	
	<u>10/6/11</u>
Kirk F. Mohney, Deputy State Historic Preservation Officer	Date

