

## **PROJECT READINESS**

The Project will begin construction in September 2024 and be complete October 2027.

### **Applicant Experience**

MaineDOT is an accomplished, experienced, and responsible recipient of previous successful FASTLANE, TIGER, INFRA, RAISE and BUILD grant funding and can be relied upon to fully fund and commence the Project well in advance of the obligation date and to complete the Project well in advance of the completion date without risk. The Agency is responsible for managing and funding the transportation system statewide, including state-owned railroad right-of-way. MaineDOT also manages the state's relationship with transportation-related private entities. Employing approximately 1,800 people, the agency expends and disburses more than \$675 million annually in Federal, state and local funds.

NBM Railways is a subsidiary of J.D. Irving Limited, a privately-held company and a subsidiary of parent company the Irving Group of Companies. Irving is involved in many industries including forestry, forestry products, agriculture, food processing, transportation and shipbuilding. NBM and MaineDOT have a unique and strong partnership finding industrial transportation solutions to connect Maine's forest, farming, and manufacturing businesses to global trade routes.

### **Public Involvement**

The Agency and Carrier communicate thoroughly with the public about the details of all projects, including those rail-related. While the Project is not specifically mentioned in the *Maine State Rail Plan*, <https://www.maine.gov/mdot/ofps/docs/railplan/MaineStateRailPlan.pdf>, the Plan extensively details previous investment and future needed investment to maintain the relevancy of Maine's rail network and transportation connections to Maine's core industries:

#### Maine rail success, page 51:

"Public/Private partnerships (federal programs, state programs, and NBM Railways) have resulted in investments totaling \$80 million on the MNR and EMR rail lines (NBM Railways) in the last 10 years. In turn, between 2011 and 2022 there has been a substantial increase in carloads on the NBM Railways system in Maine:

- 250% increase (100 to 350 carloads/week) on MNR
- 446% increase (211 to 1,153 carloads/week) on EMR

#### Connection with Canadian Pacific Railway (now CPKC), pages 23-24:

"The former CP and Bangor and Aroostook (BAR) properties acquired from CMQ provide the most direct route between these eastern seaports and Montreal. As a result, the acquisition enhances CP's opportunities for handling import and export goods transiting through the ports of Searsport, Maine and St. John. Since the acquisition, CP has made significant investments in its Maine properties to improve speeds, reliability, and capacity."

#### Rail traffic weight capacity, pages 26-27:

“Maine’s main line rail network can partially handle 286,000-pound railcars, the current industry-wide standard. EMRY and CP provide such capacity across the state from New Brunswick to Québec, as does CP’s route between Searsport and Brownville Junction. CSX and several other carriers in Maine accept 286,000-pound cars on an exception basis. However, improving the tracks and bridges to regularly accommodate the heavier cars necessitates a significant capital investment that remains to be made. The acquisition of PAR by CSX is likely to lead to the Class I railway making the necessary investments to bring its tracks in Maine to 286,000-pound capacity and potentially even to 315,000.”

### **Buy America**

MaineDOT is very experienced adhering to all Buy America requirements. The Project will conform to all Buy America regulations and requirements.

### **Environmental Risk/Required Approvals**

The Partnership recognizes that assuring the sustainability of habitats, ecosystems and transportation infrastructure can occur together for the mutual benefit of all. MaineDOT exercises reasonable stewardship over natural resources and transportation infrastructure through its commitment to addressing aquatic organisms and wildlife habitat in cooperation with natural resource agencies.

### **Environmental Risk**

During the development of the INFRA package, numerous risks were contemplated but each has a comprehensive mitigation strategy. Coordination between the design team and the environmental team will ensure that the Project goals and community needs can be met while avoiding, minimizing, and mitigation potential environmental impacts.

### **Required Approvals**

- I. Preliminary baseline data collection will be collected to identify natural and cultural resources potentially affected by the Project. This information will be refined during design and will be used to avoid and minimize impact while meeting the purpose and need of the Project.
- II. National Environmental Policy Act (NEPA): The NEPA process will inform design efforts. Based on the Project scope, the Project will be classified as a Categorical Exclusion in accordance with 23 CFR 771.117(c) (18). MaineDOT will review the Project and prepare NEPA documentation in accordance with Programmatic Agreement between the Federal Highway Administration, Maine Division and the Maine Department of Transportation Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects. Should any issues arise, MaineDOT will work directly with the respective agencies to quickly resolve them. The anticipated date for NEPA completion is June 30, 2024. Public involvement will be completed in accordance with MaineDOT Public Involvement Plan and the MaineDOT NEPA Public Involvement Plan. These plans can be found at this link:  
<https://www.maine.gov/mdot/env/NEPA/public/index.shtml>
- III. Historic and Archeological: The MaineDOT historic coordinator will evaluate the Project for eligibility for the Advisory Council on Historic Preservation (ACHP) Section 106 Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail

Rights-of-Way (Program Comment), dated August 17, 2018. Elements of the Project that do not meet the Program Comment will be processed under Section 106 in accordance with the Programmatic Agreement among the Federal Highway Administration, the Federal Railroad Administration, the Maine State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Maine Department of for the Transportation Program in Maine, dated July 6, 2022. The design team will work to avoid and minimize impacts. Should adverse effects arise, MaineDOT and FHWA will resolve adverse effects to historic properties in consultation with the Cultural Coordinator and the Maine Historic Preservation Commission as outlined in 36 CFR 800 and the MaineDOT Section 106 Programmatic Agreement. MaineDOT and FHWA Maine Division will engage federally recognized Tribes.

- IV. Section 4(f) of the Department of Transportation Act: The MaineDOT Cultural Coordinator will review the project corridor to identify Section 4(f) resources. Project details and right-of-way information will be evaluated to avoid and minimize potential Section 4(f) uses. Based on the project scope, and Section 4(f) use that is unavoidable is expected to be de minimus.
- V. Endangered Species Act (ESA) and Essential Fisheries Habitat (EFH): The Project area includes designated Essential Fish Habitat. MaineDOT and FHWA will incorporate Conservation Recommendations provided by NMFS for any culvert replacements that require in-water work. There are none associated with the Project. The project is located within the range of federally-listed Gulf of Maine Distinct Population segment of Atlantic salmon and its designated Critical Habitat. The Project is also located within the range of the federally threatened Northern Long-Eared Bat. MaineDOT and FHWA will coordinate with federal agencies during Project design to avoid and/or minimize effects to EFH and ESA species and to complete the required consultations as applicable in accordance with the Project schedule.
- VI. Section 404 Clean Water Act Permit (U.S. Army Corps of Engineers): Freshwater wetland and stream impacts are not expected but could be required. MaineDOT will avoid and minimize temporary and permanent wetland and waterbody impacts to the extent practicable. MaineDOT anticipates that wetland impacts and any in-water work will be eligible for Category 2 Permits under the Maine Programmatic General Permit. Use of In-lieu fee mitigation payments to the Maine Natural Resources Compensation Program will streamline compensatory mitigation for unavoidable wetland impacts.
- VII. Natural Resources Protection Act (Maine Department of Environmental Protection): Wetland and stream impacts are regulated by the Maine Natural Resources Protection Act. MaineDOT anticipates that any wetland and stream impacts associated with the Project will be eligible for Permit-By-Rule Chapter 305, Section 11, which is a streamlined permit process for State Transportation Facilities.
- VIII. Stormwater (Maine Department of Environmental Protection): The Project will incorporate Best Management Practices for temporary and permanent management of soil erosion and sedimentation. Permanent measures for treatment of stormwater quantity and quality will be incorporated in accordance with Chapter 500 regulations and the Memorandum of Agreement for Stormwater Management Between the MaineDOT, MTA and Maine Department of Environmental Protection.
- IX. Floodway/Floodplains: The Project may require construction of replacement crossings at waterbodies with designated Zone A and Zone B floodplains. All crossings will be

designed to avoid and minimize encroachments into designated flood zones and in accordance with Executive Order 11988. Crossings will generally be designed to improve hydraulic capacity and aquatic connectivity.

Project Risks	Mitigations
Environmental permitting/restriction <ul style="list-style-type: none"><li>Federally Endangered Atlantic Salmon DPS and Critical Habitat</li><li>Federally Endangered Northern Long-Eared Bat</li></ul>	<ul style="list-style-type: none"><li>Collaborative agreements with MaineDOT, USFWS, USACE, FHWA and MTA under the Endangered Species Act through a process that expedites endangered species consultations and aims to meet both wildlife and Project goals</li><li>Choosing a final design that minimizes in water work</li><li>Constructability reviews will be completed during design to ensure the selected alternative is buildable given the various environmental restrictions</li></ul>

### **Programmatic Agreements**

MaineDOT and various other state and federal departments have executed agreements to expeditiously but thoroughly review environmental impacts from projects. MaineDOT will take advantage of the following agreements, where applicable, to streamline the environmental review and approval process:

1. Programmatic Agreement between the Federal Highway Administration, Maine Division and the Maine Department of Transportation Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects;
2. Programmatic Agreement among the Federal Highway Administration, the Federal Railroad Administration, the Maine State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Maine Department of for the Transportation Program in Maine, dated July 6, 2022;
3. Cooperative Agreement between U.S. Department of the Interior Fish and Wildlife Service (USFWS), FHWA and the MaineDOT for State Transportation Reviews by the USFWS in Maine;
4. Maine Atlantic Salmon Programmatic Consultation finalized January 23, 2017;
5. Programmatic Agreement for the State of Maine concerning identification of listed and proposed species and designation of non-federal representative under the Federal Endangered Species Act between FHWA, Maine Division USACE, & MaineDOT;
6. Programmatic Agreement for the State of Maine concerning identification of listed and proposed species and designation of non-federal representative under the Federal Endangered Species Act between FHWA, Maine Division USACE, & MaineDOT;
7. Memorandum of Agreement for Stormwater Management Between the MaineDOT, MTA and Maine Department of Environmental Protection; and Advisory Council on Historic Preservation (ACHP) Section 106 Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way (Program Comment), dated August 17, 2018.

### **Environmental Justice**

MaineDOT utilizes the EPA EJSCREEN for all federally funded projects. According to U.S. EPA EJ Screen, the percentage of the population below the poverty level within a one-mile corridor of the project is 45 percent. The Project area includes railroad within 20 miles of Passamaquoddy Trust land and Penobscot Off-Reservation Trust Land. Both the

Passamaquoddy and the Penobscot are federally-recognized and will require special consideration under Executive Order 12898. The Project will not require residential or commercial displacements. The Project will improve existing railroad infrastructure and will reduce safety risks for all users of the transportation system, including vehicles, pedestrians, and bicyclists where they intersect with the railroad. The Project team will engage the public and work to ensure the impacts from the project will not disproportionately impact people of color, low-income, or disadvantaged populations. MaineDOT recently updated its Public Involvement Plans, which outline the Department's efforts to ensure disadvantaged populations are afforded meaningful opportunities for public involvement. The Plans are available here: <https://www.maine.gov/mdot/env/NEPA/public/index.shtml>.

### **MaineDOT's Federal Guidelines Commitment**

**Climate Change and Environmental Justice Impact Consideration:** All MaineDOT projects include consideration of climate change and environmental justice impacts. MaineDOT utilizes the EPA EJSCREEN for all Federally-funded projects.

**Racial Equity and Barriers to Opportunity:** MaineDOT recently updated its Public Involvement Plans to ensure disadvantaged populations and underserved areas are afforded meaningful opportunities for public involvement, available at: <https://www.maine.gov/mdot/env/NEPA/public/index.shtml>.

**Labor and Work:** MaineDOT is responsible for managing and funding the transportation system statewide. The Agency also manages the state's relationship with transportation-related private entities. Employing approximately 1,800 people, the agency expends and disburses more than \$675 million annually in Federal, state and local funds. MaineDOT works to create good-paying jobs that incorporate strong labor standards.

**Critical Infrastructure Security and Resilience:** MaineDOT takes physical and cyber security threats seriously. The Agency works closely with Federal agencies to ensure cybersecurity systems are in place. MaineDOT considers security when designing and constructing infrastructure that could be vulnerable to physical or cyber-attack.

**Domestic Preference Requirements:** MaineDOT follows all applicable domestic preference laws including Executive Order 14005, *'Ensuring the Future Is Made in All of America by All of America's Workers'* (86 FR 7475) and ensures the use of goods, products and materials produced in the United States for all infrastructure projects.

**Civil Rights and Title VI:** MaineDOT complies with all Federal civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964.<sup>1</sup>

**Federal Contract Compliance:** As a condition of grant award and consistent with EO 11246, Equal Employment Opportunity (30 FR 12319, and as amended), MaineDOT will make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women as well as meeting or exceeding goals for work being performed by people of color or those with disabilities.

**Compliance with Section 508 of the Rehabilitation Act of 1973:** MaineDOT recognizes the importance of providing all information and communication technology to be accessible to individuals with disabilities.

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<sup>1</sup> <https://www.maine.gov/mdot/civilrights/title-vi/>