

## CHAPTER 5 FINAL RECOMMENDED MITIGATION

In this chapter, OEA sets forth its final recommended environmental mitigation. These mitigation measures include voluntary mitigation proposed by RJCP and mitigation developed by OEA after consultation with appropriate agencies, extensive environmental analysis, and careful consideration of mitigation suggested during the DEIS and SDEIS comment periods. The mitigation measures address the environmental impacts of the proposed construction, operation, and maintenance of the Proposed Action and would apply to either of the Build Alternatives evaluated in this proceeding, unless otherwise specified. OEA recommends to the Board that it impose all of RJCP's voluntary mitigation measures and all of OEA's mitigation measures as conditions in the Board's final decision, if the Board gives final approval for the project.

In the DEIS, OEA recommended 40 mitigation measures, 38 of which were voluntary mitigation measures offered by RJCP. In the SDEIS, OEA added one new mitigation measure and modified one of RJCP's voluntary mitigation measures based on new information presented in the SDEIS. In response to the DEIS and SDEIS, commenters suggested that OEA modify some of the mitigation measures and requested that OEA recommend new or additional mitigation. OEA has responded to all of these comments in Chapters 3 and 4 of this FEIS. In response to comments, OEA has removed a mitigation measure, changed certain mitigation measures, and added new mitigation measures. Below, OEA presents RJCP's final voluntary mitigation measures, followed by OEA's final recommended mitigation. For purposes of this mitigation, the term "rail line" refers to both the rail banked Eastern Segment and the Western Segment under either the Proposed Action or the Modified Proposed Action, unless otherwise specified.

### 5.1 RJCP'S FINAL VOLUNTARY MITIGATION MEASURES

As presented in Chapter 6 of the DEIS and Chapter 7 of the SDEIS, RJCP submitted voluntary mitigation measures for the Board to consider when making its decision about this project.<sup>1</sup> OEA has reviewed these voluntary mitigation measures again, in preparing this FEIS, and recommends that, should the Board authorize the proposed rail line, it should impose the following voluntary mitigation measures.<sup>2</sup>

#### Grade Crossing Delay

- VM 1. RJCP shall coordinate the construction of all four grade crossings along the Western Segment of the rail line, including the temporary maintenance and protection of traffic measures to be implemented at each grade crossing, with the Pennsylvania Department of Transportation via the grade crossing permit process.
- VM 2. RJCP shall coordinate the construction of all four grade crossings along the Western Segment of the rail line, including the temporary maintenance and protection of traffic

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<sup>1</sup> OEA encourages applicants to propose voluntary mitigation, which may be more far reaching than the mitigation the Board unilaterally could impose.

<sup>2</sup> As previously noted, OEA modified several of RJCP's voluntary mitigation measures based on comments received on the DEIS and SDEIS. Those mitigation measures are no longer included in the list of voluntary mitigation measures and appear as part of the final recommended mitigation developed by OEA below.

measures to be implemented at each grade crossing, with the respective municipality and appropriate local emergency response service providers (i.e., police, fire and ambulance).

- VM 3. RJCP shall coordinate the final design of the grade-separated crossing at Casanova Road (T-958), including any necessary temporary maintenance and protection of traffic measures, with the Morris Township Supervisors and/or Morris Township Roadmaster/Road Department, as appropriate.
- VM 4. For each public grade crossing along the Western Segment of the rail line, RJCP shall provide and maintain a permanent sign prominently displaying both a toll-free telephone number and a unique grade-crossing identification number in compliance with Federal Highway Administration regulations (23 C.F.R. Part 655). The toll-free number shall be answered 24 hours per day by RJCP's personnel.
- VM 5. During construction of all grade crossings along the Western Segment of the rail line, RJCP shall provide appropriate advance warning signage for detours and temporary lane restrictions. Where practicable, RJCP shall maintain at least one open lane of traffic to allow for the passage of emergency response vehicles.

### **Rail Operations**

- VM 6. Regarding waste traffic, RJCP shall not engage in any waste transloading or unloading activity, but will deliver waste to customers served by the line, including RRLLC. Any unloading and disposal activities by customers must be performed in accordance with a permit issued by the appropriate authorities.
- VM 7. RJCP shall limit the speed of trains over the rail line to 25 mph with restrictions for the front of the train to be limited to 10 mph when approaching and crossing Route 53 and Ninth Street near Philipsburg.
- VM 8. Subject to operational limitations, RJCP shall attempt to limit the operation of trains over the rail line to the hours of 7 A.M. to 10 P.M. in order to minimize nighttime noise impacts to adjacent residential properties.

### **Rail Operations Safety**

- VM 9. RJCP shall comply with all applicable Federal Railroad Administration rail operations safety requirements (49 C.F.R. Parts 200-299).
- VM 10. Prior to initiating rail operations over the rail line, RJCP shall meet with private land owners to discuss appropriate safety precautions associated with at-grade private driveway crossings.
- VM 11. RJCP shall implement the appropriate safety measures at each public road grade crossing along the Western Segment of the rail line, as identified by the Rail Safety Division of the Pennsylvania Public Utility Commission during its February 12, 2009 visit to the project area.

- VM 12. Upon residential area property owners' request, and if it can be done without impairing safety on the right-of-way along the Western Segment of the rail line, RJCP shall share costs 50%-50% with property owners to erect right-of-way fence (length and height of fencing subject to RJCP discretion). If right-of-way fence is erected, the property owners shall assume responsibility and liability for fence maintenance.
- VM 13. RJCP shall transport all municipal solid waste on the rail line in accordance with Norfolk Southern Tariff NS 6306 – Rules and Regulations for Handling Municipal Solid Waste, Contaminated Soil, Hazardous Materials, and Related Articles.

### **Land Use**

- VM 14. Regarding the acquisition of private property, RJCP shall only acquire the property that is necessary to re-establish the 66-foot wide railroad right-of-way and shall attempt to reach an amicable sales agreement with each affected property owner, in lieu of instituting a condemnation proceeding.

### **Energy Resources**

- VM 15. Prior to beginning project construction, RJCP shall coordinate any required utility pole relocations or overhead utility line adjustments with the appropriate local utility company.

### **Air Quality**

- VM 16. To minimize fugitive dust emissions created during project-related construction activities, RJCP shall implement appropriate fugitive dust suppression controls, such as spraying water or other approved measures. RJCP shall also operate water trucks on local haul roads, as necessary, to reduce dust.

### **Noise**

- VM 17. RJCP shall use rail lubricants, as appropriate, on curves on the rail line in order to minimize wayside noise.
- VM 18. RJCP shall coordinate with Cooper Township if the Township wishes to petition the State to install gates or other supplementary safety measures on the rail line, in order to provide the level of warning necessary to allow the Township to request a waiver from the Federal Railroad Administration of the requirement to sound the horn at both the Sawmill Road (T-707) and Winburne Road (S.R. 2037) grade crossings.

### **Threatened and Endangered Species**

- VM 19. RJCP shall ensure that any herbicidal sprays used in track maintenance on the rail line are approved by the U.S. Environmental Protection Agency and are applied by licensed individuals who shall limit application to the extent necessary for rail operations.

## **Wetlands and Watercourses**

- VM 20. Prior to initiation of any project-related construction activities, RJCP shall obtain the necessary U.S. Army Corps of Engineers Section 404 and Pennsylvania Department of Environmental Protection Chapter 105 Waterway Encroachment authorizations, and a National Pollutant Discharge Elimination System construction permit from the Pennsylvania Department of Environmental Protection.
- VM 21. RJCP shall implement appropriate erosion and sedimentation control measures to minimize potential water quality impacts during project construction in accordance with an Erosion and Sedimentation Pollution Control Plan approved by the Centre and Clearfield County Conservation Districts.
- VM 22. RJCP shall comply with appropriate wetland and watercourse mitigation required by the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection as part of its Section 404/Chapter 105 permitting process.
- VM 23. RJCP shall evaluate the potential to provide wetland and watercourse mitigation on the rail line via an in lieu fee agreement (i.e., payment of funds to an acceptable program) with local watershed or conservation organizations and/or state or federal resource agencies.
- VM 24. RJCP shall disturb the smallest area possible around wetlands and watercourses on the rail line and shall conduct reseeding efforts to ensure proper revegetation of disturbed areas as soon as practicable following project-related construction activities.
- VM 25. RJCP shall not stage project-related construction materials or equipment within any identified wetland or watercourse areas.
- VM 26. During project-related construction, RJCP shall require daily inspections of all equipment for any fuel, lube oil, hydraulic or antifreeze leaks. If leaks are found, RJCP shall require the particular piece of equipment to be removed or repaired immediately.
- VM 27. RJCP shall construct the rail line in such a way as to maintain current drainage patterns to the maximum extent practicable.
- VM 28. During project-related construction, RJCP shall prohibit construction vehicles from driving in or crossing streams at other than established/permitted crossing points.
- VM 29. RJCP shall employ best management practices to control turbidity and minimize channel disturbance during the construction of the new bridge over Laurel Run.
- VM 30. RJCP shall design a bridge structure and approach railway grade that minimizes impacts to the 100-year floodplain of Laurel Run to the maximum extent practicable. However, should the proposed bridge structure and/or approach railway grade result in changes to the 100-year flood elevation, RJCP shall coordinate with the local municipality and the

Federal Emergency Management Agency regarding implementation of the flood map revision process by way of a Conditional Letter of Map Revision.

### **Parks and Recreation Facilities**

- VM 31. To minimize the risk of potential railroad-caused wildfires in the Moshannon State Forest, as well as other forested areas along the rail line, RJCP shall develop and coordinate a Wildfire Suppression and Control Plan with the District Manager of Moshannon State Forest. Items to be incorporated into this Wildfire Suppression and Control Plan shall include: a requirement to maintain spark arrestors on all locomotives owned/leased by RJCP, monthly inspections of all RJCP owned/leased locomotives on the rail line incorporating a “burnout” of the exhaust stack to remove excess carbon materials, maintaining communications with the appropriate wildfire suppression personnel from the Pennsylvania Department of Conservation and Natural Resources Moshannon State Forest District, and when operationally feasible, operating a fire suppression vehicle behind trains during times of high fire danger, as designated by the Pennsylvania Department of Conservation and Natural Resources Moshannon State Forest District.
- VM 32. RJCP shall attempt to negotiate a mutually acceptable agreement with the Headwaters Charitable Trust to mitigate the impacts of the reactivation of the rail banked Eastern Segment or the loss of 9.3 miles of the Snow Shoe Multi-Use Rail Trail. However, should RJCP determine that a mutually acceptable mitigation agreement is unachievable, RJCP reserves the right to construct a new trailhead facility, consisting of a gravel parking area and covered sign structure, at the new Gorton Road trail terminus, as the sole voluntary mitigation for the project’s impact to the Snow Shoe Multi-Use Rail Trail.

### **Geology and Soils**

- VM 33. RJCP shall limit earth disturbance activities to only the area needed for project-related construction.

### **Historic Resources**

- VM 34. RJCP shall construct the rail line in such a manner as to leave in place, or require only minor relocation of, all remaining historic concrete mileage markers associated with the original Beech Creek Railroad.
- VM 35. RJCP shall construct the rail line in such a manner as to leave in place the historic stone portals to the Peale Tunnel.

## **5.2 OEA’S FINAL RECOMMENDED MITIGATION**

In the DEIS, OEA developed two additional mitigation measures. In the SDEIS, OEA recommended four mitigation measures, one of which was a new mitigation measure and one of which took the place of RJCP’s VM 20 from the DEIS. Here, OEA recommends a total of nine mitigation measures, four of which are new based on the comments received on the DEIS and SDEIS and two of which are modifications to certain RJCP voluntary mitigation measures. OEA has also eliminated one of its

original recommended mitigation measures based on a comment received in response to the SDEIS (see comment SDEIS MI-5 in Chapter 4 of this FEIS). For each of the mitigation measures listed below, OEA indicates whether the condition was originally recommended in the DEIS, originally recommended in the SDEIS or added in the FEIS. OEA also notes whether the conditions originally recommended in the DEIS and SDEIS have been modified.

### **Geology and Soils**

1. RJCP shall implement appropriate soil erosion and sedimentation control measures during construction of the rail line pursuant to PA Code Title 25 Chapter 102 Erosion and Sediment Control regulations. *Originally recommended in the DEIS as #2.*

### **Hazardous Materials Transport**

2. RJCP shall comply with all applicable U.S. Department of Transportation regulations governing the transport of hazardous materials by rail found at 49 C.F.R § 174, and outlined in Norfolk Southern Railway Company's United States Hazardous Materials Instructions for Rail (HM-1). *Originally recommended in the SDEIS as #3.*

### **Biological Resources**

3. RJCP shall re-survey the applicable wetland habitats located along the selected alternative prior to Section 404/Chapter 105 permitting by the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection to ensure that no *Sparganium androcladum* has spread to the project area. If any specimens of *Sparganium androcladum* are discovered during the re-survey, RJCP shall coordinate with the Pennsylvania Department of Conservation and Natural Resources to implement appropriate mitigation measures during project construction. *Originally recommended in the DEIS as VM 20; modified and replaced in the SDEIS as #4.*
4. To minimize avian mortality and ensure project compliance with the Migratory Bird Treaty Act, RJCP shall only remove brush, shrubs, and trees as part of rail line construction between September 1st and March 31st. *Added in the FEIS.*

### **Water Resources**

5. To minimize potentially adverse impacts to aquatic resources during track maintenance activities, RJCP shall use the aquatic formulation of any herbicide chosen when herbicide use is anticipated around streams and wetlands. *Added in the FEIS.*
6. RJCP shall install orange protective fencing around all wetlands in the area of new railroad construction associated with the Modified Proposed Action's Alternate Route from Philipsburg to Munson mainline connection. *Added in the FEIS.*

## Land Use

7. To maintain consistency with local land use plans, RJCP shall not stack, stage or store trains on the rail line within Morris, Cooper or Decatur Townships other than in emergency operating conditions. While not a complete list, examples of emergency operating conditions would include a broken air line, locomotive failure, derailment, or crew hours of service limitations. *Originally recommended in the DEIS as VM 15; modified and replaced in the FEIS based on comments received.*

## Hazardous Waste Sites

8. During project construction, RJCP shall take any solid waste discovered along the rail line, or generated as a result of rail construction activities, to a permitted solid waste processing or disposal facility. *Originally recommended in the DEIS as VM 36; modified and replaced in the FEIS based on comments received.*

## Proposed Action and Modified Proposed Action Construction

9. Prior to project construction, RJCP shall contact PA OneCall to identify the exact location and depth of the subsurface water/sewer line crossing at Winburne Road and any other subsurface utility line crossings along the approximately 20-mile rail corridor. RJCP shall take proper steps to ensure that construction of the rail line does not impact any subsurface utilities and shall immediately rectify any utility impacts resulting from construction activities if they occur. *Added in the FEIS.*

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