

CHAPTER 1 INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

On May 20, 2008, R.J. Corman Railroad Company/Pennsylvania Lines Inc. (RJCP)¹ filed a petition with the Surface Transportation Board (Board),² pursuant to 49 U.S.C. § 10502 and 49 C.F.R. § 1121, for exemption from the prior approval requirements of 49 U.S.C. § 10901 to construct and operate an abandoned 10.8-mile rail line between Wallaceeton and Winburne in Clearfield County, Pennsylvania (the Western Segment) and to reactivate a connecting 9.3-mile portion of currently rail banked³ line between Winburne and Gorton in Clearfield and Centre Counties, Pennsylvania (the Eastern Segment) (together, the Proposed Action). The Board's Office of Environmental Analysis (OEA)⁴ issued a Draft Environmental Impact Statement (DEIS) on July 23, 2010, for public review and comment. The DEIS evaluated the potential environmental impacts that could result from RJCP's proposed rail line construction, operation, and reactivation and recommended mitigation that could be undertaken to reduce the potential impacts identified.

In response to the DEIS, OEA received approximately 66 written comment letters, as well as 18 oral comments submitted at a public meeting held in Philipsburg, Pennsylvania, on September 14, 2010. After carefully reviewing all comments received, as well as additional information about the project proposal, OEA has decided to prepare this Supplemental Draft EIS (SDEIS).⁵

¹ Operating out of Clearfield, Pennsylvania, RJCP is one of a family of short line railroad operators controlled directly by R.J. Corman Railroad Group, LLC, based in Nicholasville, Kentucky. R.J. Corman Railroad Group, LLC, is majority-owned and controlled by Richard J. Corman. RJCP is a Class III railroad, and the acquisition of its current lines in the vicinity of Clearfield, Pennsylvania was authorized pursuant to R.J. Corman R.R. Co./Pa. Lines, Inc. – Acquis. and Operation Exemption – Lines of Consol. Rail Corp., FD 32838 (STB served Jan. 26, 1996). RJCP operates over a former Consolidated Rail Corporation (Conrail) light density line that extends from an interchange with the Norfolk Southern Railway Company (NS) at Keating, through Clearfield and Wallaceeton, to Osceola Mills, Pennsylvania.

² The Board is a bipartisan, decisionally-independent adjudicatory body, organizationally housed within the U.S. Department of Transportation (USDOT). The Board was established by the ICC Termination Act of 1995 (49 U.S.C. § 10101 *et seq.*; P.L. 104-88, December 29, 1995) to assume certain regulatory functions that the Interstate Commerce Commission (ICC) had administered. The Board has jurisdiction over rail constructions, rail abandonments, rail rates, and railroad acquisitions and consolidations. Other functions of the ICC were either eliminated or transferred to different agencies within USDOT.

³ In 1983, concerned by the rapid contraction of America's rail network, Congress amended the National Trails System Act to create the rail banking program. Rail banking is a method by which rail lines authorized for abandonment can be preserved for future rail use through interim use as a trail. A rail banked line is not treated as abandoned. See 16 U.S.C. § 1247(d). Instead, the right-of-way is "rail banked," which means that the railroad is relieved of the current obligation to provide service over the line but that the railroad (or any other approved rail service provider) may reassert control to restore service on the line at any point in the future. If and when the railroad wishes to restore rail service on all or part of the property, it has the right to do so, and the trail user must step aside. See Birt v. STB, 90 F.3d 580, 583 (D.C. Cir. 1996); Iowa Power–Constr. Exempt.–Council Bluffs, IA, 8 I.C.C.2d 858, 866-67 (1990); 49 C.F.R. § 1152.29(c)(2), (d)(2); Ga. Great S. Div.—Abandon. & Discontinuance of Serv., 6 S.T.B. 902, 906 (2003); R.J. Corman R.R. Co./Pa. Lines, Inc.—Constr. and Operation Exemption—In Clearfield Cnty., Pa., FD 35116 (STB served July 27, 2009).

⁴ OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010.

⁵ The reasons for OEA's decision are set forth later in this chapter.

The SDEIS focuses on three specific matters: 1) the potential environmental impacts associated with RJCP's proposed transport of ethanol over the rail line, 2) the change in the preliminary plan approval status of the No-Build Alternative – Local Road System Upgrade (Black Rock Road), and 3) the results of the 2010 summer field survey for Branching Bur-reed (*Sparganium androcladum*), a Pennsylvania Endangered Species.

1.2 BACKGROUND

As originally presented in the DEIS, both the Eastern and Western Segments would be operated by RJCP to serve a new landfill (now a waste-to-ethanol facility), quarry, and industrial park currently being developed by Resource Recovery, LLC (RRLLC)⁶ near Gorton in Rush Township, Centre County, as well as several other interested shippers located along the proposed rail line. Figure 1-1 shows the location of both the Western and Eastern Segments of the proposed rail line.

At the project's initial public scoping meeting (held on February 10, 2009), a member of the public identified an alternate route for a portion of the Western Segment. This alternate route would entail continued use of RJCP's existing Wallaceton Subdivision line south of Wallaceton to a point near Philipsburg where a new connection would be built to another 5.8-mile previously abandoned rail line leading northeast to Munson (formerly referred to as the Philipsburg Industrial Track). From Munson eastward to Winburne, the Western Segment remains unchanged from RJCP's original petition. Thus, a portion of the Western Segment has been divided into two separate routes for consideration, namely RJCP's original "Wallaceton to Munson Route" and the more recently proposed "Alternate Route from Philipsburg to Munson." Figure 1-2 shows the locations of these two alternate routes to Munson, including a proposed new connection area associated with the Alternate Route from Philipsburg to Munson.

The Proposed Action involves the proposed construction and operation of a new rail line over the previously abandoned Western Segment and the reactivation of active rail service over the rail banked Eastern Segment. OEA has also considered an alternative to the Proposed Action, known as the Modified Proposed Action. The Proposed Action is presented in RJCP's petition for exemption filed with the Board and consists of the originally proposed Eastern Segment and the Western Segment. As described above, the Proposed Action's Western Segment would follow the Wallaceton to Munson Route and then continue east to Winburne. The Modified Proposed Action consists of the same Eastern Segment, but the Modified Proposed Action's Western Segment would follow the Alternate Route from Philipsburg to Munson and then continue east to Winburne. Under either of these alternatives, RJCP proposes to construct a single-track line over the approximate 20-mile project length and to operate common carrier rail service over the proposed rail line.

In addition to the Proposed Action and Modified Proposed Action, several other alternatives were evaluated as part of the DEIS. These other alternatives include several No-Build and No-Action Alternatives. The primary difference between the No-Build Alternative and the No-Action Alternative is that the No-Build Alternative relates only to not building a rail line, but does allow

⁶ RRLLC is a privately owned company located in Mountville, Pennsylvania, that was created to undertake an economic development project located near Gorton in Rush Township, Centre County, Pennsylvania. In accordance with RJCP's petition, RRLLC's proposed development project is to include a landfill, sand and gravel quarry, and industrial park. None of the R.J. Corman companies, including RJCP or its non-rail carrier affiliates, has any affiliation with RRLLC through stock ownership, control, or otherwise.

for other construction activities or actions to occur, whereas the No-Action Alternative refers to simply that, no change to the status quo. The two options considered under the No-Build Alternative include the construction of a new interchange on Interstate 80 to provide direct vehicular access to RRLLC's proposed development site and the improvement of the existing local road system to do the same. Under the No-Action Alternative, RJCP would not gain access to RRLLC's proposed development site or to other local shippers by any means.

1.3 PURPOSE AND NEED

The purpose of the Proposed Action is to provide rail transportation service to a new waste-to-ethanol facility, quarry, and industrial park being developed by RRLLC near Gorton in Rush Township, Centre County, as well as to several other interested shippers located along the proposed line. RJCP has stated that the Proposed Action is needed to provide rail transportation service to RRLLC's proposed development site. Currently, there is no rail transportation service to or even near the development site, and the site would not cross the line of any other active or inactive railroad. RJCP has explained, however, that if there is no rail service, trucks on local roads and highways would be used to provide the transportation at issue. It is estimated that RJCP's proposed rail line could keep up to 1,100 trucks per day (550 loaded and 550 empty) off the local road system.

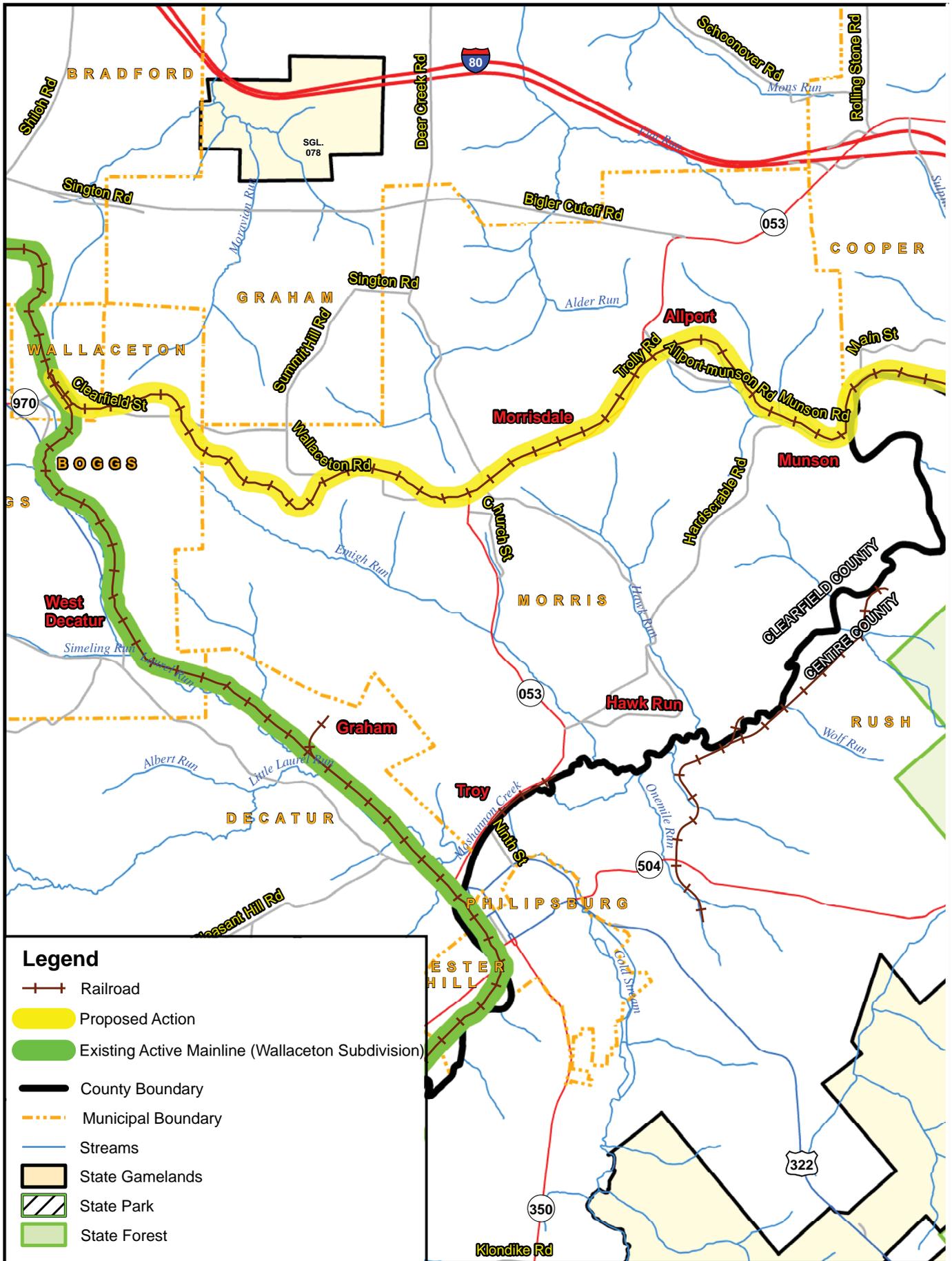
1.4 ENVIRONMENTAL REVIEW PROCESS FOR THIS PROCEEDING

On January 8, 2009, OEA published its Notice of Intent to Prepare an EIS and Draft Scope of Study in the *Federal Register* and on the Board's website. OEA placed notice of the public scoping meeting in two local newspapers, including the *Progress News* on January 21, 2009 and the *Centre Daily Times* on February 6, 2009. Additionally, OEA mailed invitation letters to 31 federal, state, and local agencies, including the project area municipalities and counties, as well as local elected officials (see Appendix A of the DEIS).

The scoping meeting was held on the evening of February 10, 2009 in the Philipsburg-Osceola Senior High School gymnasium. The meeting was conducted in an open house/plans display style format to allow attendees to provide comments and ask questions of OEA and its independent third-party consultant, Skelly and Loy, Inc. of Harrisburg, Pennsylvania, on a one-on-one basis at each of the display boards. The 130 individuals who attended the scoping meeting included project-area citizens, representatives of various organizations, elected officials, and agency personnel. In total, OEA received:

- 100 comment forms from individuals attending the scoping meeting,
- 13 comment letters, and
- 17 individual comments filed electronically.

As previously noted, a member of the public at the scoping meeting suggested that an alternate route to Munson was available that would potentially avoid and/or minimize many of the socioeconomic, transportation and safety, noise, and land use impacts associated with a portion of RJCP's proposed Western Segment. After investigating this alternate route, OEA agreed that it might avoid or minimize potential environmental impacts and asked RJCP to determine its engineering feasibility. Following the public scoping meeting, RJCP conducted preliminary field reconnaissance to determine the engineering feasibility and estimated environmental impacts associated with this



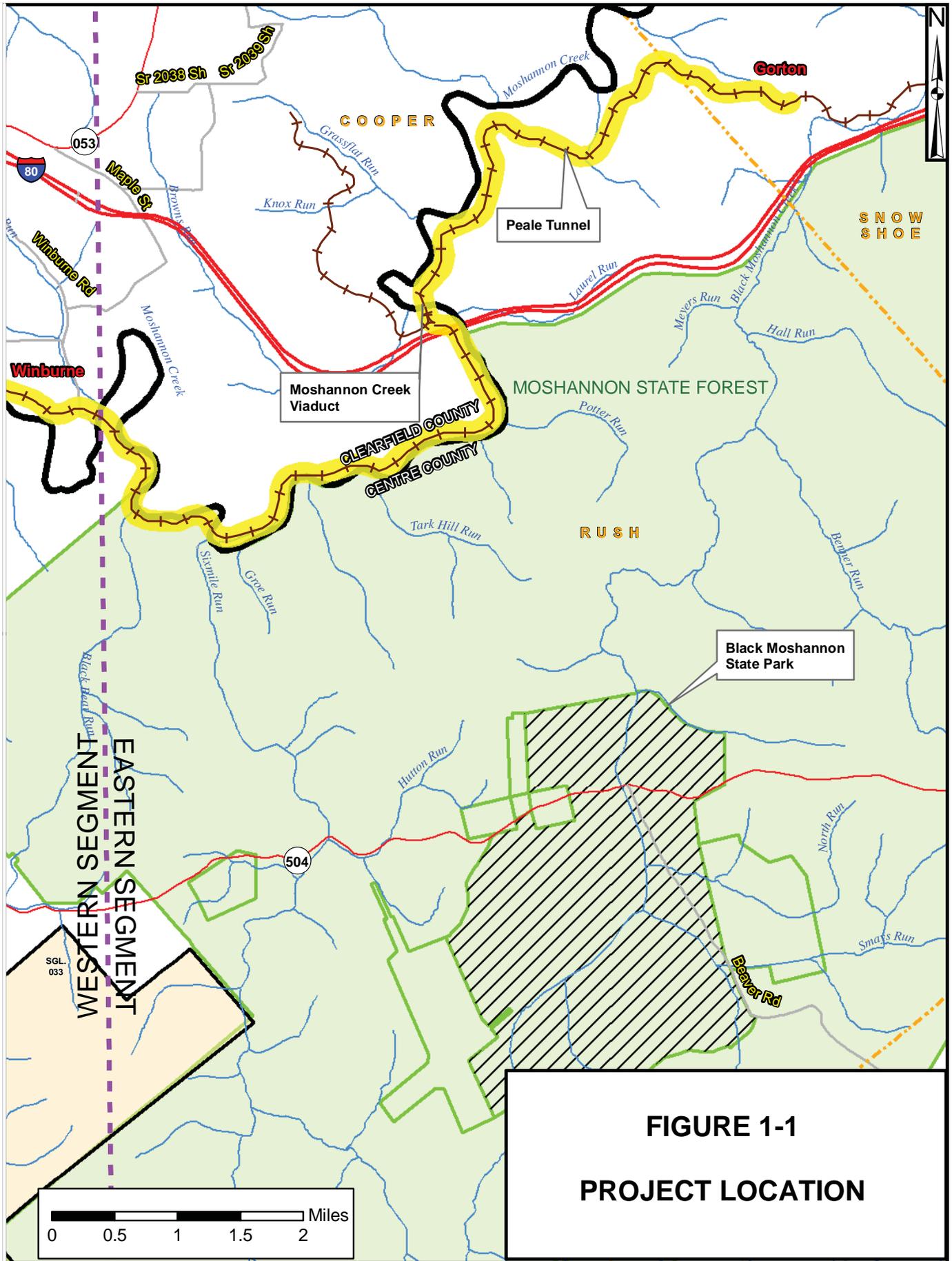
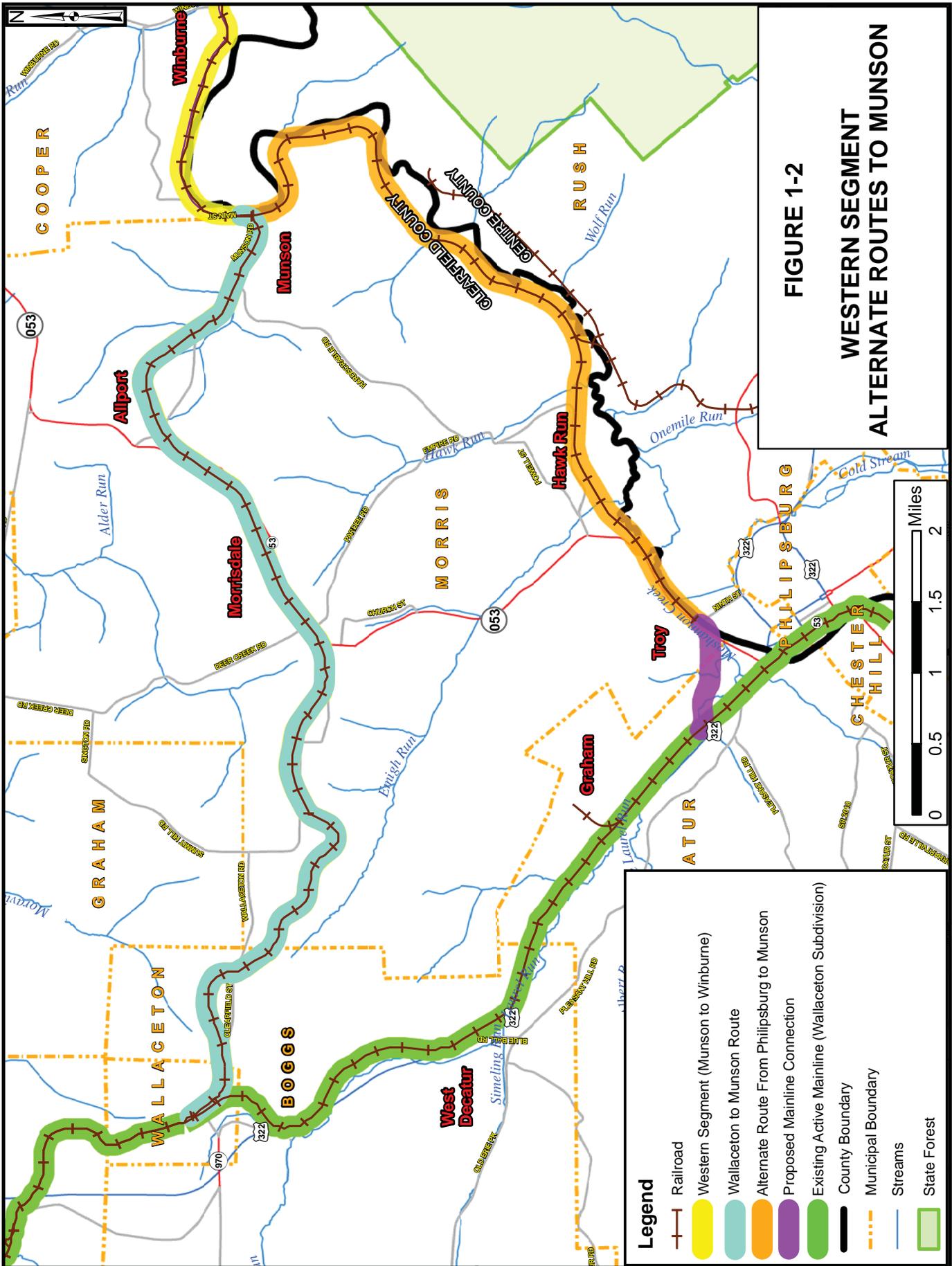


FIGURE 1-1
PROJECT LOCATION



Alternate Route from Philipsburg to Munson. Based on the preliminary investigations, RJCP did not see any major engineering or construction constraints that would be associated with this alternate route. RJCP concurred that the Alternate Route from Philipsburg to Munson would potentially avoid and/or minimize many of the impacts associated with a portion of its original proposed Western Segment. Thus, RJCP presented this alternate route to OEA as its new preferred alignment for this portion of the Western Segment.

Due to this additional alternative route for a portion of the Western Segment, OEA sent another consultation letter to federal, state, and local agencies soliciting agency input (see Appendix B of the DEIS). In addition, the Final Scope of Study, served by the Board on July 31, 2009, included a discussion of this potential change in routing, which was presented as part of the Modified Proposed Action in the DEIS.

Following the public scoping meeting and development of the Final Scope of Study, OEA prepared the DEIS to evaluate the environmental impacts of the Proposed Action and its alternatives. The DEIS was prepared pursuant to the provisions of the National Environmental Policy Act (NEPA) and related environmental regulations, including the Board's own environmental regulations found at 49 C.F.R. § 1105.7. The DEIS was served on parties and delivered to the U.S. Environmental Protection Agency (USEPA) on July 23, 2010. USEPA published notice of the availability of the DEIS in the *Federal Register* seven days later on July 30, 2010. Copies of the DEIS were sent to 25 federal/state agencies, 13 local government units, 8 elected officials, 11 organizations, 5 public libraries, and 20 individuals, and was posted on the Board's website. OEA established a 60-day public comment period for the DEIS, and comments were due by September 28, 2010. Additionally, OEA held a public meeting for the DEIS on September 14, 2010 in the Philipsburg-Osceola Senior High School auditorium. At the public meeting, OEA provided a brief project overview and then opened the floor for public comment on the DEIS. Commenters were given three minutes to present their oral testimony. A total of 98 people attended the public meeting, and 18 people presented oral testimony.

As noted above, OEA received 66 written comments on the DEIS. Comments on the DEIS were varied. While some commenters expressed support for RJCP's proposal, many commenters questioned OEA's decision to treat RRLC's proposed landfill as a cumulative impact instead of as a "connected action" in the DEIS. Many commenters also expressed opposition to the loss of 9.3 miles of the Snow Shoe Multi-Use Rail Trail. In accordance with NEPA regulations, OEA will respond to these comments, as well as to any comments received on this SDEIS, in the Final Environmental Impact Statement (FEIS). The FEIS will also contain any additional analyses that OEA believes necessary, as well as OEA's final recommendations on environmental mitigation. After issuance of the FEIS, the Board will then issue a final decision either to approve, deny, or approve with conditions RJCP's petition. In reaching its decision, the Board will take into consideration the DEIS, this SDEIS, the FEIS, and OEA's final recommendations on environmental mitigation.

1.5 SCOPE OF THIS SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT

OEA is issuing this SDEIS to address changes in the project that have developed since the preparation of the DEIS. This SDEIS addresses three issues:

- RJCP's now planned transport of ethanol, a regulated hazardous material, over the proposed rail line,
- a detailed analysis of the No-Build Alternative – Local Road System Upgrade (Black Rock Road) to reflect the recent approval from Centre County that would be necessary to implement that alternative, and
- the results of the 2010 summer field survey for Branching Bur-reed (*Sparganium androcladum*), a Pennsylvania Endangered Species.

On November 17, 2010, RJCP submitted written correspondence (see Appendix A) to OEA stating that based on recent changes to RRLLC's development project, including the development of a waste-to-ethanol facility, RJCP would be willing to provide outbound transport of RRLLC's estimated five carloads of ethanol per day from the proposed waste-to-ethanol facility. OEA determined that the anticipated transport of ethanol, a regulated hazardous material, over RJCP's proposed rail line was a substantial change in the information that was available when the DEIS was prepared and that the potential handling of ethanol should be assessed in an SDEIS. OEA determined that certain environmental issue areas discussed in Chapter 4 – Environmental Impacts of the DEIS warrant re-examination in light of this change. These issue areas include: transportation and safety (i.e., rail operations and rail operations safety), hazardous materials transport, land use, biological resources, water resources (i.e., wetlands and watercourses, and groundwater and public water supplies), socioeconomics, and geology and soils. OEA employed a similar methodology to the methodology presented in Chapter 4 of the DEIS to re-evaluate these issue areas. These findings and conclusions are documented in Chapter 3 of this SDEIS.

As discussed in Section 2.3.2 of the DEIS, OEA considered a modified version of the Local Road System Upgrade alternative involving the construction of a new access road (i.e., Black Bear Road) from State Route (S.R.) 0053 to Gorton Road. Under this alternative, all of the proposed roadway improvements described for the Local Road System Upgrade alternative would still apply except for the improvements to Gorton Road. Instead of those improvements, a new access road (i.e., Black Rock Road) would be constructed from S.R. 0053 west of Moshannon across Black Moshannon Creek to a new intersection with Gorton Road. Despite having the wrong name for this proposed new access road (Black Bear Road instead of the correct name, Black Rock Road), the DEIS correctly noted that RRLLC had proposed this new access road in June 2009 as part of a larger property subdivision plan. OEA did not advance this particular version of the Local Road System Upgrade alternative for further consideration in the DEIS, however, because, at that time, RRLLC's preliminary subdivision plan was denied approval by the Centre County Planning and Community Development Office. Following the issuance of the DEIS, OEA learned that RRLLC successfully challenged the Centre County Planning and Community Development Office's disapproval of its preliminary plan. In a court order issued by Judge Bradley P. Lunsford of the Centre County Court of Common Pleas (see Appendix C), RRLLC's preliminary subdivision plan was approved. Because the preliminary plan approval status of Black Rock Road has changed, OEA believes it would be appropriate to carry the Black Rock Road alternative forward for more detailed analysis in this SDEIS.

Under NEPA, alternatives considered in detail must be examined in a manner that allows reviewers to compare them equally.⁷ Thus, OEA used the same scope of analysis for the study of the Black Rock Road alternative as the scope of analysis for the alternatives studied in detail in the DEIS. This includes analysis of the following resource areas: transportation and safety, land use, energy resources, air quality, noise and vibration, biological resources, water resources, socioeconomics, environmental justice, geology and soils, hazardous waste sites/hazardous materials transport, and cultural/historic resources. These findings and conclusions are presented in Chapter 4 of this SDEIS.

Finally, the SDEIS includes the findings of the 2010 summer field survey for Branching Bur-reed (*Sparganium androcladum*), a Pennsylvania Endangered Species. As presented in Section 4.6.3 of the DEIS, consultation with the Pennsylvania Department of Conservation and Natural Resources (PA DCNR) indicated that the proposed rail line is within the known range of several different threatened and endangered plant species, including Branching Bur-reed. Of the PA DCNR listed plant species, only Branching Bur-reed had the potential to be found within the immediate proximity of the proposed rail line. The DEIS reported that a *Sparganium* species had been observed growing in a number of wetland habitats along both routes of the Western Segment, but due to the critical flowering/fruitletting time period required for precise field identification of this genus, identification down to the species level was not possible. Chapter 6 of this SDEIS presents the findings of the 2010 summer field survey and subsequent conclusions regarding this unidentified *Sparganium* species. Documentation of the follow-up coordination with PA DCNR about these findings is included in Appendix D.

OEA is issuing this SDEIS to provide federal and state agencies, local municipalities, elected officials, and the public with an opportunity to review and comment on the new project information. The Council on Environmental Quality (CEQ) regulations implementing NEPA do not require that formal scoping activities be undertaken to determine the scope of study for a supplemental EIS.⁸ The Board's environmental regulations at 49 C.F.R. 1105.10(a)(5) indicate that preparation of a draft scope of study for public review and comment and then a final scope of study that takes into consideration the comments received on the draft scope may be appropriate for a supplemental EIS. But here, the scope of the SDEIS has been well defined by the new project information and by the environmental review process to date. Consequently, OEA determined that formal scoping was unnecessary.

1.6 ORGANIZATION AND FORMAT OF THIS SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT

This SDEIS is organized and formatted in a manner that is consistent with NEPA and the CEQ regulations found at 40 C.F.R. § 1502.10. It is organized in such a way as to provide additional information about the project that has developed since the circulation of the DEIS in a clear and concise manner. The SDEIS gives a general overview of the project, describes the Proposed Action and its alternatives (including the Black Rock Road alternative), presents new project information and recent project findings, and outlines any changes to OEA's recommended environmental mitigation. Chapters and specific topics within each chapter are outlined in the Table of Contents and numerically coded to aid the reader in navigating through the document. Tables and figures

⁷ 40 C.F.R. § 1502.14(b)

⁸ 40 C.F.R. § 1502.9(c)(4)

are listed numerically by the chapter in which they occur. Appendices are denoted with alphabetic characters and are included at the end of the SDEIS.

The following is a list and a brief description of the components of this SDEIS:

Executive Summary

The Executive Summary provides a brief description of the Proposed Action and its alternatives, the project purpose and need, the reasons for completing this SDEIS, the new project information presented in this SDEIS, any changes to OEA's recommendations for environmental mitigation, and OEA's recommendation for the environmentally preferable alternative.

Chapter 1 – Introduction and Background

This chapter provides a brief overview of RJCP's proposed project, including a description of the Proposed Action, the alternatives to the Proposed Action, the project purpose and need, and the environmental review process conducted to date for this proceeding. Chapter 1 also outlines the scope of this SDEIS and provides instructions on submitting written comments.

Chapter 2 – Proposed Action and Alternatives

Chapter 2 provides a summary of the Proposed Action and its alternatives, as presented in the DEIS. This chapter also presents a detailed description of the Black Rock Road alternative and identifies OEA's recommendation for the environmentally preferable alternative.

Chapter 3 – Transport of Ethanol

Chapter 3 presents OEA's analysis of the anticipated transport of ethanol over RJCP's proposed rail line. Specifically, this chapter re-examines the transportation and safety (i.e., rail operations and rail operations safety), hazardous materials transport, land use, biological resources, water resources (i.e., wetlands and watercourses, and groundwater and public water supplies), socioeconomics, and geology and soils resource areas originally presented in Chapter 4 – Environmental Impacts of the DEIS. These environmental resource areas have the greatest potential to be affected by the transportation of ethanol.

Chapter 4 – Environmental Impacts of the Black Rock Road Alternative

Chapter 4 presents OEA's detailed analysis of the environmental impacts associated with the Black Rock Road alternative.

Chapter 5 – Cumulative Impacts

Chapter 5 discusses several changes to the cumulative impact projects identified in the DEIS, and the subsequent change in reasonably foreseeable cumulative impacts that could result from these changes.

Chapter 6 – Threatened and Endangered Species Update

This chapter presents the findings of the 2010 summer field survey for Branching Bur-reed (*Sparganium androcladum*), a Pennsylvania Endangered Species.

Chapter 7 – Mitigation

Chapter 7 summarizes RJCP's voluntary mitigation measures, as well as OEA's preliminary recommended mitigation presented in the DEIS. This chapter also provides discussion of new or modified mitigation measures developed as a result of the information and analyses presented in this SDEIS.

Chapter 8 – List of Preparers

This chapter lists the names and educational qualifications of the preparers of this SDEIS.

Chapter 9 – List of Agencies, Organizations and Persons to Whom Copies of the Supplemental Draft EIS are Sent

This chapter is self-explanatory.

Appendices

The Appendices consist of supplementary materials received or prepared in connection with this SDEIS. Certain technical files containing detailed calculations, impact evaluations, resource summaries, field notes, assessment methodologies, and other supplementary materials have also been included in the Appendices, as appropriate.

1.7 REQUEST FOR COMMENTS ON THIS SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT

OEA welcomes written comments on all aspects of this SDEIS. All comments on this SDEIS, as well as all comments previously submitted on the DEIS, will be considered in preparing the FEIS. The FEIS will respond to all substantive comments on the DEIS and SDEIS and will set forth OEA's final conclusions and recommended mitigation measures. After issuance of the FEIS, the Board will then issue a final decision taking into consideration the DEIS, SDEIS, FEIS, and OEA's final recommendations on environmental mitigation. All comments must be submitted within the 45-day comment period, which will close April 25, 2011. When submitting comments on the SDEIS, be as specific as possible and substantiate your concerns and recommendations.

Please mail written comments on the SDEIS to the address below:

Surface Transportation Board
395 E Street, SW
Washington, DC 20423

To ensure proper handling of your comments, please mark your submission:

Attention: Danielle Gosselin
Office of Environmental Analysis
Environmental Filing FD 35116

Written comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link.

Due to the public meetings on this project that have already been held and the limited nature of this SDEIS, OEA requests written comments only, and will not be holding a public meeting to solicit oral comments on the SDEIS. Comments will be posted on the Board's website after they are received. For additional information regarding the history of this proceeding, please visit the Board's website.