

CHAPTER 7 MITIGATION

In this chapter, OEA sets forth its preliminary recommended environmental mitigation. In the DEIS, OEA recommended 40 mitigation measures. In response to the DEIS, commenters suggested OEA modify some of the mitigation measures and requested that new or additional measures be recommended. OEA will respond to these comments in the FEIS and, in response to those comments, may change the mitigation recommended in the DEIS, as well as recommend additional mitigation measures.

Based on the additional analysis presented in this SDEIS, OEA has recommended some new mitigation measures, as well as some modifications to the mitigation measures previously recommended in the DEIS for the two build alternatives. OEA's recommended mitigation would minimize or eliminate potential impacts on grade crossing delay, rail operations, rail operations safety, land use, energy resources, air quality, noise, threatened and endangered species, wetlands and watercourses, parks and recreation facilities, geology and soils, hazardous waste sites, hazardous materials transport, and historic resources. Below, OEA presents the mitigation measures recommended in the DEIS, followed by the new or changed mitigation measures recommended in this SDEIS. 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.

OEA invites public and agency comments on these proposed environmental mitigation measures. In order for OEA to assess the comments effectively, it is critical that the public be specific regarding any desired mitigation and the reasons why the suggested mitigation would be appropriate. OEA will make its final recommendations on environmental mitigation to the Board in the FEIS after considering all public comments on the DEIS and SDEIS. The Board will then make its final decision regarding this project and any environmental conditions it might impose. In making its decision, the Board will consider the DEIS, the SDEIS, the FEIS, public comments, and OEA's final environmental mitigation recommendations.

7.1 RJCP'S VOLUNTARY MITIGATION MEASURES

As presented in Chapter 6 of the DEIS, RJCP submitted voluntary mitigation measures for the Board to consider when making its decision about this project.¹ OEA has reviewed these voluntary mitigation measures again, and recommends that, should the proposed rail line be approved, the Board require RJCP to comply with these voluntary mitigation measures.

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

¹ OEA encourages applicants to propose voluntary mitigation. Because applicants gain a substantial amount of knowledge about the issues associated with a proposed right-of-way during project planning and because they consult with regulatory agencies during the permitting process, they are often in a position to offer relevant voluntary mitigation. This mitigation may be more far-reaching than the mitigation the Board unilaterally could impose.

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 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 RLLC. 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 7:00 A.M. to 10:00 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), as appropriate.
- VM 10. Prior to initiating rail operations over the rail line, RJCP shall meet with private landowners 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 a 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.
- VM 15. In an effort to maintain consistency with the Morris Township Comprehensive Land Use Plan, RJCP shall not stack, stage, or store trains on the rail line within Morris Township 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.

Energy Resources

- VM 16. 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 17. 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 18. RJCP shall use rail lubricants, as appropriate, on curves on the rail line in order to minimize wayside noise.

- VM 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. RJCP shall not stage project-related construction materials or equipment within any identified wetland or watercourse areas.
- VM 27. 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 28. RJCP shall construct the rail line in such a way as to maintain current drainage patterns to the maximum extent practicable.

- VM 29. During project-related construction, RJCP shall prohibit construction vehicles from driving in or crossing streams at other than established/permitted crossing points.
- VM 30. RJCP shall employ best management practices to control turbidity and minimize channel disturbance during the construction of the new bridge over Laurel Run.
- VM 31. 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 32. 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 the train during times of high fire danger, as designated by the Pennsylvania Department of Conservation and Natural Resources Moshannon State Forest District.
- VM 33. RJCP shall attempt to negotiate a mutually acceptable agreement with the Headwaters Charitable Trust to mitigate the impacts of the reactivation of the railbanked 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 34. RJCP shall limit earth disturbance activities to only the area needed for project-related construction.

Hazardous Waste Sites

- VM 35. During project-related construction, RJCP shall properly dispose of any and all waste materials encountered along the rail line.

Historic Resources

- VM 36. 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 37. RJCP shall construct the rail line in such a manner as to leave in place the historic stone portals to the Peale Tunnel.

7.2 OEA'S PRELIMINARY RECOMMENDED MITIGATION

In the DEIS, OEA recommended two additional mitigation measures, beyond the voluntary mitigation measures proposed by RJCP. Based on the new project information, OEA recommends two new environmental mitigation measures, one of which would supercede VM 20 from the DEIS.

Land Use

1. RJCP shall offer fair market value payment in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act for the acquisition/condemnation of any private property needed to construct the rail line within the Western Segment of the rail line.

Geology and Soils

2. 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.

Hazardous Materials Transport

3. 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).

Biological Resources

This condition would replace VM 20 in the DEIS:

4. 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.