

EXECUTIVE SUMMARY

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 Wallacetown 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 72 written/electronic comments, 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 on the DEIS, as well as additional information about the project proposal, OEA decided to prepare a Supplemental Draft EIS (SDEIS) to address several changes in the project that had taken place since the preparation of the DEIS. The SDEIS focused on three specific matters: 1) the potential environmental impacts associated with RJCP's proposed transport of ethanol, a regulated hazardous material, 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. The SDEIS was issued on March 4, 2011. In response to the SDEIS, OEA received an additional 23 written/electronic comments. Due to the public meetings that had already been held on this project and the limited focus of the SDEIS, OEA

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 existing lines in the vicinity of Clearfield, Pennsylvania was authorized by the Board in 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 Wallacetown, 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, mergers, 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 49 C.F.R. § 1152.29(c)(2)(d)(2); Iowa Power–Constr. Exempt.–Council Bluffs, IA, 8 I.C.C.2d 858, 866-67 (1990); Birt v. STB, 90 F.3d 580, 583 (D.C. Cir. 1996); 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.

requested written comments only. All written/electronic comments received on the DEIS and SDEIS have been included in Appendices A, B and C of this Final EIS (FEIS), respectively. Similarly, a complete copy of the transcript from the September 14, 2010 public meeting, including all 18 oral comments, has been included in Appendix D of this FEIS.

OEA has prepared this FEIS to address the public and agency comments that were received in response to both the DEIS and SDEIS. The FEIS, which is organized in a manner that is consistent with Council on Environmental Quality (CEQ) regulations, is intended to be read in conjunction with both the DEIS and SDEIS, which provide more detailed information on the Proposed Action and Alternatives, as well as their respective impacts on the human environment. There are numerous references throughout this FEIS to pertinent sections, chapters, and appendices of the DEIS and SDEIS to avoid repetition between the documents. Thus, this document incorporates via reference, instead of repeating, the comprehensive affected environment and environmental impact analysis that was included in the DEIS and SDEIS. In addition to responding to the numerous public and agency comments received on the DEIS and SDEIS, the FEIS clarifies and, where necessary, expands upon certain environmental impact information presented in the DEIS and SDEIS, discusses OEA's conclusions, and includes OEA's final environmental mitigation recommendations for this project.⁵

PROPOSED ACTION

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. Because a member of the public identified a potential alternate route for a portion of the Western Segment during scoping, OEA has considered an alternative to the Proposed Action (known as the Modified Proposed Action), described below. Under either of these build alternatives, RJCP proposes to construct a single-track line over the approximately 20-mile project length and to operate common carrier rail service over the entire 20 miles of line. At peak capacity, RJCP anticipates that it would serve the Resource Recovery, LLC (RRLLC)⁶ development and other local shippers with one or at most two unit trains (trains consisting of 55 to 70 cars) daily. Other alternatives to the Proposed Action, including the No-Action Alternative, are discussed below.

PURPOSE AND NEED FOR PROPOSED ACTION

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 railroad. RJCP has explained, however, that if there is no rail service available, trucks on local roads and highways

⁵ OEA's final environmental mitigation recommendations are outlined below and in Chapter 5 of this FEIS.

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. RRLLC's proposed development project would include a landfill (now waste-to-ethanol facility), 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.

would be used to provide the transportation at issue. It is estimated that RJCP's proposed rail line could keep up to 1,164 trucks per day (582 loaded and 582 empty)⁷ off the local road system.

ENVIRONMENTAL REVIEW PROCESS FOR THIS PROCEEDING

OEA began the environmental review of RJCP's proposal by consulting with appropriate federal, state, and local agencies, as well as with RJCP. Consultations with interested agencies, other government entities, and the public have continued throughout the EIS process (see Appendices A, B and C of the DEIS). 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 attending 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 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

⁷ In Section 1.5 of the DEIS, OEA stated 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. Based on further analysis, OEA subsequently increased the number of trucks potentially being kept off the local road system by 64 to account for the 32 loaded and 32 empty tanker trucks that would haul ethanol from RRLLC's proposed waste-to-ethanol facility. This increased truck loading on the local road system is discussed in detail in Section 3.1.2 of the SDEIS.

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. Part 1105. 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 the DEIS 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 each to present their oral comments. A total of 98 people attended the public meeting, and 18 people presented oral comments.

After carefully reviewing all comments received on the DEIS, as well as additional information about the project proposal, OEA decided to prepare an SDEIS to address several changes in the project that had taken place since the preparation of the DEIS. The SDEIS was served on the parties and delivered to USEPA on March 4, 2011. USEPA published notice of the availability of the SDEIS in the *Federal Register* seven days later on March 11, 2011. Copies of the SDEIS were sent to 27 federal/state agencies, 13 local government units, 8 elected officials, 15 organizations, 5 public libraries, and 43 individuals, and the SDEIS was posted on the Board's website. OEA established a 45-day public comment period for the SDEIS, and comments were due by April 25, 2011. Due to the public meetings that had already been held on this project and the limited focus of the SDEIS, OEA requested written comments only.

As noted above, OEA received 72 written/electronic comments on the DEIS and an additional 23 written/electronic comments on the SDEIS.⁸ While some commenters on the DEIS and SDEIS expressed support for RJCP's proposal, others questioned OEA's decision to include RRLLC's proposed landfill as part of the cumulative impacts analysis instead of examining it as a "connected action." Many commenters opposed the loss of 9.3 miles of the Snow Shoe Multi-Use Rail Trail. In accordance with NEPA regulations, OEA has responded to all of these comments in this FEIS.

NEXT STEPS

On November 18, 2011, OEA filed the FEIS with USEPA and issued it to government agencies, elected officials, community groups, citizens, and parties of record. The entire document is also available on the Board's website at www.stb.dot.gov and at several public libraries in the project area. Issuance of the FEIS completes the environmental review process. The Board will now decide whether to give final approval to this proposal, and if so, what environmental mitigation to impose.

⁸ In the SDEIS, OEA stated that it received 66 written/electronic comments in response to the DEIS. In the FEIS, OEA clarifies that it actually received 72 written/electronic comments, including six comments received after the September 28, 2010 DEIS comment deadline. This FEIS summarizes and responds to all 72 comments on the DEIS in Chapter 3 and all 23 comments on the SDEIS in Chapter 4.

In reaching its decision, the Board will take into consideration the DEIS, SDEIS, FEIS, and OEA's final recommendations on environmental mitigation.

OEA anticipates that USEPA will publish the notice of availability of the FEIS in the *Federal Register* on November 25, 2011. Under CEQ regulations (40 C.F.R. 1506.10(b)), agencies must wait 30 days from USEPA's Federal Register notice before issuing a final decision unless they have an internal appeal process. The Board has such a process, which means that the Board could issue a final decision in less than 30 days from November 25, 2011. If the Board were to do so, OEA recommends that the Board's administrative review period be extended to permit parties to seek agency reconsideration of the final decision within 30 days after it is served, rather than the typical 20 days. The Board would consider any administrative appeals in a subsequent decision.

ALTERNATIVES CONSIDERED

OEA evaluated six alternatives during the environmental review of RJCP's proposal: the Proposed Action, an alternative to the Proposed Action (known as the Modified Proposed Action), three no-build alternatives, and the No-Action Alternative. These alternatives are summarized below:

- **Build Alternative (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 Western Segment. The Proposed Action's Western Segment would follow the Wallaceton to Munson Route and then continue east to Winburne. If the Proposed Action is authorized by the Board, R.J. Corman Railroad Group's own construction crew would construct the proposed rail line. RJCP estimates that construction of the Proposed Action would take approximately 12 to 18 months to complete. The line would be constructed on a 66-foot right-of-way owned/controlled or to be owned/controlled by RJCP.
- **Build Alternative (Modified Proposed Action)** – 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. Construction activities for the Modified Proposed Action would be the same as the Proposed Action, and there would be no change in the width of the right-of-way or ownership. RJCP has identified this alternative as its preferred alignment.
- **No-Build Alternative (I-80 Interchange)** – The I-80 Interchange alternative involves no physical rail improvements. Under this alternative, the construction of a new interchange on Interstate 80 would be used to provide direct vehicular access to RRLLC's proposed waste-to-ethanol facility/industrial development site and to other interested shippers. This alternative was not advanced for detailed analysis in the DEIS because FHWA had not (and to date still has not) granted approval of the new interchange.
- **No-Build Alternative (Local Road System Upgrade)** – Much like the I-80 Interchange alternative, the Local Road System Upgrade alternative involves no physical rail improvements. Rather, under this alternative the existing local road system would be improved to accommodate the anticipated volume of truck traffic that would be generated by RRLLC's proposed waste-to-ethanol facility/industrial development site and other shippers located in the project area.

- **No-Build Alternative (Black Rock Road)** – A variation on the Local Road System Upgrade alternative, the Black Rock Road alternative involves no physical rail improvements. Rather, under this alternative the existing local road system would be improved and a new access road would be constructed to accommodate the anticipated volume of truck traffic generated by RRLLC’s proposed waste-to-ethanol facility/industrial development site and the traffic of other area shippers. This alternative was not advanced for detailed analysis in the DEIS because when the DEIS was prepared, RRLLC’s subdivision plan had not been approved by the Centre County Planning and Community Development Office. However, this alternative was carried forward for detailed analysis in the SDEIS because RRLLC subsequently received the necessary preliminary County approval to implement the Black Rock Road No-Build Alternative.
- **No-Action Alternative** – This alternative involves retaining the status quo and taking no action, rail or otherwise. Under this alternative, RJCP would not provide rail service to RRLLC’s proposed waste-to-ethanol facility/industrial development site (or to any of the other interested shippers located along the proposed line), nor would the improvements needed to provide an acceptable means of vehicular access be undertaken. In short, this alternative would result in no change in access to RRLLC’s proposed waste-to-ethanol facility/industrial development site beyond use of the existing local road system in its current physical condition.

IDENTIFICATION OF THE ENVIRONMENTALLY PREFERABLE ALTERNATIVE

NEPA requires a comparison of the environmental impacts of the Proposed Action and its alternatives to select the Preferred Alternative (or Alternatives). Section 2.4 of the DEIS thus compared the environmental impacts of the various alternatives considered in detail in that document and included a table (Table 2-2) summarizing the comparison. Based on this information, OEA concluded that the Modified Proposed Action would be environmentally preferable to the Proposed Action and would also be the environmentally preferable alternative for this project. In the SDEIS, OEA again found, after considering the new information presented, that the Modified Proposed Action would be the environmentally preferable alternative. Finally, after carefully reviewing and responding to all of the comments submitted on the DEIS and SDEIS in this FEIS, OEA continues to find that the Modified Proposed Action would be the environmentally preferable alternative for this project.

The analysis summarized in Table 2-2 in the DEIS indicates that the Local Road System Upgrade alternative would be the least environmentally preferable alternative of those studied in detail. In addition to the transportation, operational and economic inefficiencies of this alternative when compared to the rail alternatives, this alternative would result in substantially greater air quality, noise, and energy resource impacts. Under this alternative, a substantially greater number of adjacent residential properties would be affected (there would be a minimum of three unavoidable residential displacements). Given the presence of a National Register-listed resource and a potential National Register-eligible historic district, this alternative would also likely result in a finding of adverse effect pursuant to the regulations of the Advisory Council on Historic Preservation, implementing Section 106 of the National Historic Preservation Act. Finally, this alternative would involve a greater number of potential hazardous/residual waste sites (i.e., existing and former gas stations/automotive repair garages). One benefit of this alternative is that it would avoid the Snow Shoe Multi-Use Rail Trail. However, it would also result in a greater volume of truck traffic on local

roadways, thereby impacting activities that take place on portions of the PA Wilds Elk Scenic Drive and PA Bicycle Route V.

Regarding the rail alternatives, OEA concluded in the DEIS that the Modified Proposed Action would be the environmentally preferable route. This determination was based on a number of factors, one of the most important of which is that the Modified Proposed Action's Alternate Route from Philipsburg to Munson would involve substantially fewer public road and private driveway crossings. For comparison purposes, the Proposed Action (via the Wallaceton to Munson Route) would involve 19 public road crossings and 13 private driveway crossings, whereas the Modified Proposed Action (via the Alternate Route from Philipsburg to Munson) would involve only 5 public road crossings and 2 private driveway crossings. The Modified Proposed Action also would affect fewer adjacent residential properties (155 versus 28) and less noise-impacted sensitive land uses (178 versus 32). Fewer residences would be potentially affected by vibration (6 versus 0). Additionally, because the Modified Proposed Action is approximately one mile shorter than the Proposed Action, this alternative would result in less air quality and energy impacts because trains operating over the line would travel shorter distance. Due to topographic differences in the two routes to Munson, one disadvantage of the Modified Proposed Action is that it would impact approximately 3.36 acres of wetlands, whereas the Proposed Action would impact only 1.34 acres of wetlands. However, the Proposed Action would have a higher watercourse impact (1,570 linear feet versus 980 linear feet).

The ethanol analysis in the SDEIS further supported OEA's conclusion that the Modified Proposed Action would be the environmentally preferable alternative for this project. In Chapter 3 of the SDEIS, OEA explained that, although highly unlikely on either build alternative,⁹ a train accident resulting in a release of ethanol on the Proposed Action's Western Segment would generally be more significant than a train accident resulting in a release of ethanol on the Modified Proposed Action's Western Segment. An ethanol spill along the Proposed Action would have a greater potential to impact people, whereas an ethanol spill along the Modified Proposed Action would have a greater potential to impact the natural environment (i.e., biological resources, water resources, etc.). This would result from the notable differences in land use between the Western Segment's two alternate routes to Munson. Impacts of a spill on the natural environment would, of course, also be undesirable. But potential impacts to people are generally considered more significant than potential impacts to natural resources. In addition, OEA concluded that the significantly greater number of grade crossings associated with the Proposed Action compared to the Modified Proposed Action (i.e., 17 versus 4) would likely increase the probability of occurrence of a train accident for the Proposed Action.

In the SDEIS, OEA concluded that the Black Rock Road alternative, similar to the Local Road System Upgrade alternative, would be less environmentally preferable than either of the rail alternatives. As discussed in Chapter 4 of the SDEIS, the same transportation, operational, and economic inefficiencies exist with the Black Rock Road alternative as they do with the Local Road System Upgrade alternative. These inefficiencies include substantially greater air quality, noise, and energy resource impacts than either of the two rail alternatives studied in detail. The operation of truck traffic over the Black Rock Road alternative would result in an estimated annual

⁹ OEA calculated a 0.0007 (0.07%) annual probability of occurrence for a mainline train accident resulting in a release of hazardous materials on the proposed rail line. This annual probability of occurrence would equal an estimated return year interval (an estimate of time between accidents) of one accident resulting in a release of hazardous materials every 1,428 years. See Chapter 3 of the SDEIS.

fuel requirement that is nearly six times greater than that calculated for the rail alternatives. As a result, this significantly greater fuel requirement would cause an equally greater air quality impact from mobile source emissions that would be generated from the greater fuel usage. From a noise perspective, the Black Rock Road alternative is expected to result in 171 noise-impacted sensitive land uses, compared to only 32 noise-impacted sensitive land uses for the Modified Proposed Action. Additionally, consultation with the U.S. Fish and Wildlife Service (USFWS), Pennsylvania Fish and Boat Commission (PFBC), Pennsylvania Game Commission (PGC) and Pennsylvania Department of Conservation and Natural Resources (PA DCNR) indicated that the 3.1-mile new roadway construction associated with the Black Rock Road alternative would have a greater potential to impact threatened and endangered species than the Local Road System Upgrade alternative or either of the rail alternatives. Given the presence of a National Register-listed resource and a potential National Register-eligible historic district, this alternative would also likely have greater adverse effects on historic resources. The major benefit of the Black Rock Road alternative is that it would avoid the Snow Shoe Multi-Use Rail Trail. However, it would also result in a greater volume of truck traffic on local roadways, specifically S.R. 0053 and S.R. 0144, thereby impacting activities that take place on portions of the PA Wilds Elk Scenic Drive and PA Bicycle Route V.

For the reasons described above, OEA has again determined in this FEIS that the Modified Proposed Action would be environmentally preferable to the Proposed Action and would also be the environmentally preferable alternative for this project. None of the comments received on the DEIS or SDEIS convinced OEA to change its decision. However, a careful review of the comments did result in the identification of several new environmental mitigation measures that OEA has incorporated into its final mitigation recommendations in Chapter 5 of this FEIS. OEA's final recommended mitigation measures would further reduce or minimize the overall environmental impacts along the Modified Proposed Action. Therefore, OEA recommends that, should the Board authorize this project, it should authorize the Modified Proposed Action, subject to OEA's final recommended mitigation.

SUMMARY OF OEA'S FINAL RECOMMENDED MITIGATION

In Chapter 5 of the FEIS, 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.

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.¹⁰ 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.¹¹

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 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.

¹⁰ OEA encourages applicants to propose voluntary mitigation, which may be more far reaching than the mitigation the Board unilaterally could impose.

¹¹ 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.

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.

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.*