

## CHAPTER 1 INTRODUCTION AND BACKGROUND

### 1.1 INTRODUCTION

On May 20, 2008, R.J. Corman Railroad Company/Pennsylvania Lines Inc. (RJCP)<sup>1</sup> filed a petition with the Surface Transportation Board (Board),<sup>2</sup> 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 banked<sup>3</sup> 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)<sup>4</sup> 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,<sup>5</sup> 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 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

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<sup>1</sup> 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 Wallaceeton, to Osceola Mills, Pennsylvania.

<sup>2</sup> 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.

<sup>3</sup> 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).

<sup>4</sup> 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.

<sup>5</sup> In the SDEIS, OEA stated that it received 66 written/electronic comments in response to the DEIS. In the FEIS, OEA clarifies that it received 72 written/electronic comments, including 6 comments after the September 28, 2010, DEIS comment deadline. This FEIS summarizes and responds to all 72 comments in Chapter 3.

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 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.<sup>6</sup>

For purposes of this FEIS, OEA refers to Resource Recovery, LLC's (RRLLC)<sup>7</sup> proposed development project in two separate ways due to the project changes that were addressed in the SDEIS. When discussing the DEIS, such as in Chapter 3 where OEA summarizes and responds to comments on the DEIS, OEA refers to RRLLC's development project as RRLLC's proposed landfill or landfill/industrial development site in order to be consistent with the way it was presented in the DEIS. Throughout the remainder of this FEIS, including Chapter 4 where OEA summarizes and responds to comments on the SDEIS, OEA refers to RRLLC's development project as RRLLC's proposed waste-to-ethanol facility/industrial development site to be consistent with current project plans.

## 1.2 BACKGROUND

As presented in the DEIS, both the Eastern and Western Segments would be operated by RJCP to serve a new landfill, quarry, and industrial park currently being developed by RRLLC 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 as originally proposed by RJCP.

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<sup>6</sup> OEA's final environmental mitigation recommendations are outlined in Chapter 5 of this FEIS.

<sup>7</sup> 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.

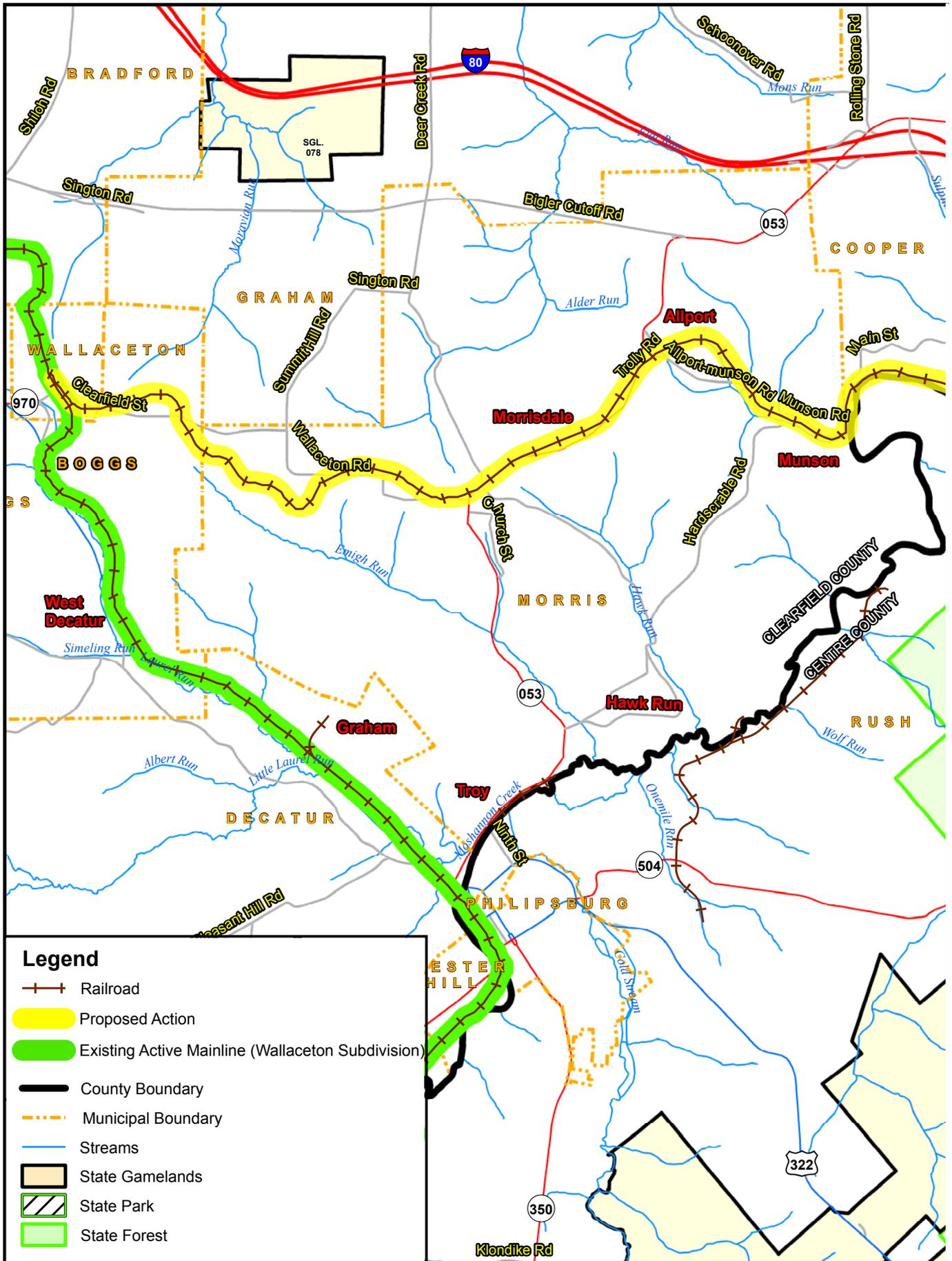
At the project's initial public scoping meeting (held on February 10, 2009 in Philipsburg, Pennsylvania), a member of the public identified an alternate route for a portion of the Western Segment. This alternate route would entail continued use of RJCP's existing Wallaceton Subdivision line south of 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 the proposed new connection area associated with the Alternate Route from Philipsburg to Munson.

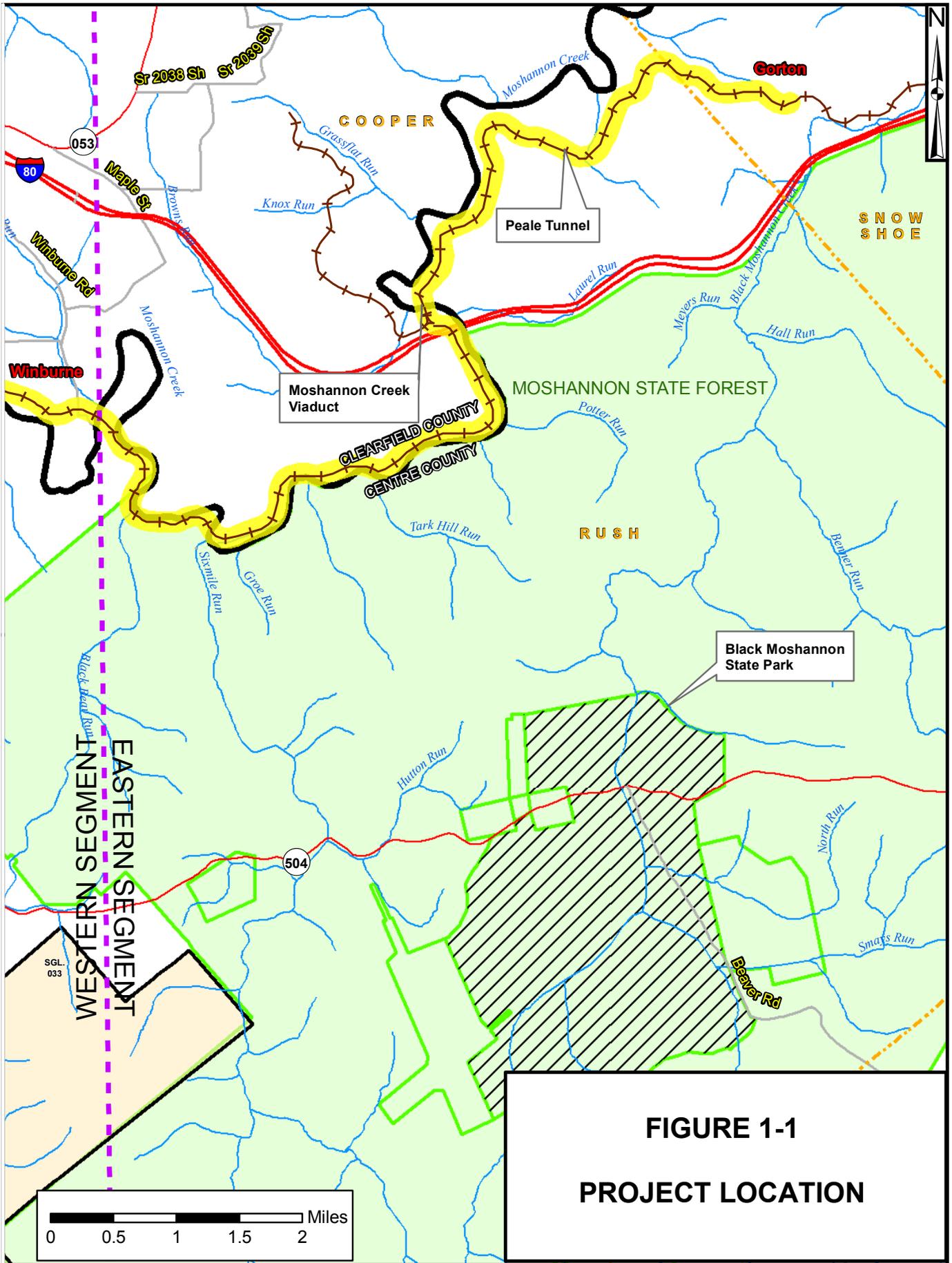
The Proposed Action involves the proposed construction and operation of a new rail line over the previously abandoned Western Segment and the reactivation of active rail service over the rail banked Eastern Segment. OEA has also considered an alternative to the Proposed Action, known as the Modified 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 and SDEIS. 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 for other construction activities or actions to occur, whereas the No-Action Alternative refers to simply that, no change to the status quo. The three 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, the improvement of the existing local road system to do the same, and a modified version of this option involving the construction of a new access road (i.e., Black Rock Road) from S.R. 0053 to Gorton Road. Under the No-Action Alternative, RJCP would not gain access to RRLLC's proposed development site or to other local shippers by any means.

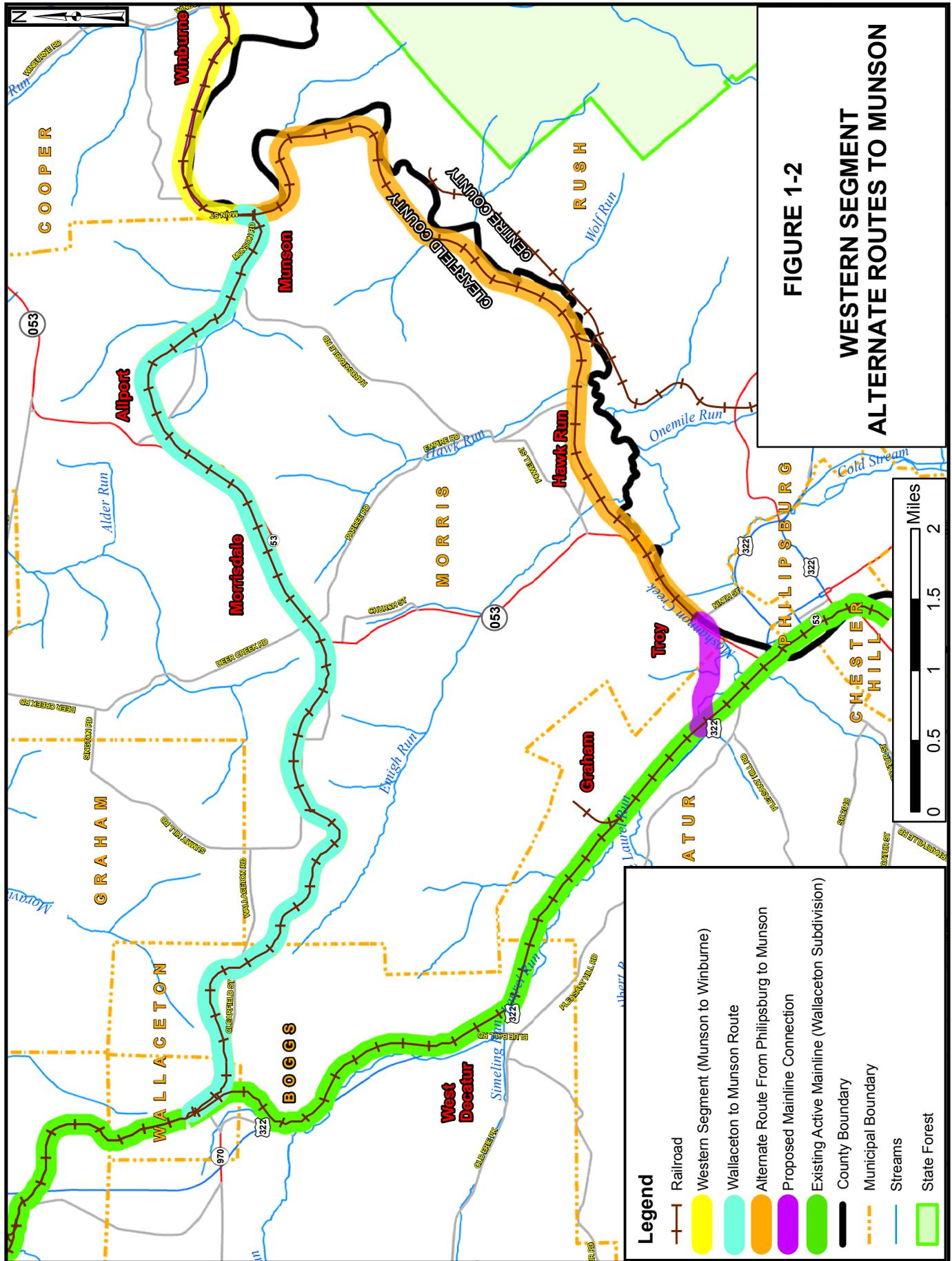
### **1.3 PURPOSE AND NEED**

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





**FIGURE 1-1**  
**PROJECT LOCATION**



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)<sup>8</sup> 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 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 discussion of this potential change in routing, which was presented as part of the Modified Proposed Action in the DEIS.

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<sup>8</sup> 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.

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. 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. Issuance of the FEIS concludes the environmental review process. The Board will now 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, SDEIS, FEIS, and OEA's final recommendations on environmental mitigation.

## 1.5 COOPERATING AGENCIES

The Board, pursuant to 49 U.S.C. § 10901, is the federal agency responsible for granting authority for the construction and operation of new rail lines. Accordingly, the Board, through OEA, is the lead agency responsible under the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (NEPA) for the preparation of this EIS.

Early in the project development process, OEA invited the U.S. Army Corps of Engineers (USACE) – Baltimore District to participate as a cooperating agency in the development of this EIS due to the presence of wetlands and watercourses subject to the jurisdictional authority of USACE within the project area.<sup>9</sup> USACE indicated its willingness to participate as a cooperating agency in this EIS via written correspondence on October 24, 2008 (see Appendix B of the DEIS). USACE is responsible for administering the Section 404 (b)(1) environmental permitting guidelines of the Clean Water Act (CWA) of 1977. In this capacity, USACE has the authority to regulate portions of the Proposed Action that affect waters of the U.S., including wetlands. Additionally, the Federal Highway Administration (FHWA) – Pennsylvania Division expressed its desire to participate as a cooperating agency via e-mail correspondence to OEA on February 9, 2009. Shortly thereafter, on February 19, 2009, FHWA sent written correspondence to OEA formally requesting to participate as a cooperating agency. FHWA pointed to the two options listed under the No-Build Alternative, namely the I-80 Interchange alternative and the Local Road System Upgrade alternative, and the subsequent action that would be required by FHWA should one of these alternatives be selected as the preferred alternative as the reason for its participation. On March 16, 2009, OEA formally accepted FHWA’s request.

In response to the environmental impact information presented in the DEIS, USACE submitted written correspondence to OEA on September 1, 2010 (see Appendix B of this FEIS), stating that “based on the information received by this office, and in looking at the work that falls within our scope of review, it appears that the proposal within our scope of analysis may not have a significant effect on the human environment...(thus) it appears that an EIS will not be required as part of our permit review process.” Because of this determination, USACE stated that it does not need to serve as a cooperating agency for this project and will conduct its own independent environmental review during future review of permit applications.

## **1.6 ORGANIZATION AND FORMAT OF THIS FINAL ENVIRONMENTAL IMPACT STATEMENT**

This FEIS is organized and formatted in a manner that is consistent with NEPA and CEQ regulations found at 40 C.F.R. § 1502.10. It is organized to respond clearly and concisely to the comments received on the DEIS and SDEIS. 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 are listed numerically by the chapter in which they occur. Appendices are denoted with alphabetic characters and are included at the end of the FEIS.

The following is a list and brief description of the components of this FEIS.

### **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 provides information regarding the timeline for submitting an administrative appeal in this proceeding.

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<sup>9</sup> Pursuant to 40 C.F.R. §§ 1501.5, 1501.6, agencies that have jurisdiction under other laws or that have “special expertise” may participate as cooperating agencies in the Board’s environmental review process.

## **Chapter 2 – Proposed Action and Alternatives**

Chapter 2 provides a summary of the Proposed Action and its alternatives, as originally presented in the DEIS and updated in the SDEIS. This chapter also identifies OEA’s final recommendation for the environmentally preferable alternative.

## **Chapter 3 – DEIS Comment Summaries and Responses**

Chapter 3 summarizes and responds to the comments that OEA received on the DEIS.

## **Chapter 4 – SDEIS Comment Summaries and Responses**

Chapter 4 summarizes and responds to the comments that OEA received on the SDEIS.

## **Chapter 5 – Mitigation**

Chapter 5 summarizes OEA’s final environmental mitigation recommendations, including several new mitigation measures developed in response to the comments received on the DEIS and SDEIS.

## **Chapter 6 – List of Preparers**

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

## **Chapter 7 – List of Agencies, Organizations and Persons to Whom Copies of the Final EIS are Sent**

This chapter is self-explanatory.

## **Appendices**

The appendices contain copies of all written/electronic comments received on the DEIS and SDEIS, as well as a complete transcript of the oral comments given at the September 14, 2010 public meeting.

### **1.7 30-DAY ADMINISTRATIVE APPEAL**

CEQ regulations (40 C.F.R. 1506.10(b)) provide that an agency shall not make a decision on a proposed action less than 30 days from the publication of a notice of a FEIS in the *Federal Register*, unless the Board’s decision is subject to a formal administrative review process after publication of the FEIS. In such cases, CEQ regulations provide that the period for appeal of the agency’s decision and the 30-day period prescribed in 40 C.F.R. 1506.10(b) may run concurrently.

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.

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