

EO - 2452



FD 35523: OEA's Final Recommended Mitigation
David Navecky to: Melanie

01/08/2015 07:52 AM

From: David Navecky/STB
To: Melanie@lgrailaw.com,

Melanie -

As requested, attached is a Word file of OEA's final recommended mitigation.

Thanks,

Dave

Dave Navecky
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423
202-245-0294
www.stb.dot.gov



OEAs Final Mitigation to Gitomer.docx

2.4 Applicants' Voluntary Mitigation

As part of their application and participation in OEA's environmental review process, Applicants submitted proposed voluntary mitigation measures (VM) to OEA. OEA has reviewed the voluntary mitigation measures, and should the Proposed Transaction be approved, OEA recommends that the Board require Applicants to comply with all of the voluntary mitigation measures listed below.

Applicants divided their mitigation measures in two parts: (1) construction-related VMs (i.e., those related to the proposed upgrades under the Proposed Transaction, all of which would take place within the existing right-of-way of the L&I Line) and (2) VMs related to Transaction-related train operations on the L&I Line and CSXT's Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

Construction-related VMs

These construction-related VMs apply to the Transaction-related upgrades to the L&I Line, replacement of the Flatrock River Bridge on the L&I Line, and if pursued by Applicants, extensions of the Elvin and Brook sidings on the L&I Line.

General Construction and Grade Crossing Safety

VM 1. Where transaction-related grade-crossing rehabilitation is mutually agreed to by Applicants and the Indiana Department of Transportation (INDOT), Applicants will assure that rehabilitated roadway approaches and rail line crossings meet or exceed INDOT's rules, guidelines, or statutes, and the American Railway Engineering and Maintenance of Way Association (AREMA) standards, with a goal of eliminating rough or humped crossings to the extent reasonably practicable.

VM 2. Within six months of acquisition of a freight easement over the L&I Line, Applicants will consult with affected communities to improve visibility at highway rail at-grade crossings by clearing vegetation and other obstructions.

VM 3. Applicants will adhere to all applicable Federal Occupational Safety and Health Administration (OSHA), Federal Railroad Administration (FRA), and state construction and operational safety regulations to minimize the potential for accidents and incidents on the L&I Line.

VM 4. In undertaking Transaction-related construction activities, Applicants will use practices recommended by AREMA and recommended standards for track construction in the AREMA Manual for Railway Engineering.

VM 5. During Transaction-related construction concerning at-grade crossings, when reasonably practicable, Applicants will consult with INDOT and the Kentucky Transportation Cabinet (KYTC) regarding detours and associated signage, as appropriate, or maintain at least one open lane of traffic at all times to allow for the quick passage of emergency and other vehicles.

VM 6. Applicants will minimize temporary road closures during construction activities associated with the rail line upgrade and siding extension. Applicants will manage construction schedules to:

- Minimize highway/rail at-grade crossing closures; and
- Relay highway/rail at-grade crossing closure schedules to local emergency service providers.

VM 7. To the extent reasonably practicable, Applicants will confine construction traffic to a temporary access road within the construction right-of-way or established public roads. Where traffic cannot be confined to temporary access roads or established public roads, Applicants will make necessary arrangements with landowners to gain access from private roadways. The temporary access roads will be used only during project-related construction. Any temporary access roads constructed outside the rail line right-of-way will be removed and restored upon completion of construction unless otherwise agreed to with the landowners.

Water Resources

VM 8. Applicants will compensate in accordance with U.S. Army Corps of Engineers (USACE) regulations in Indiana for wetland impacts that cannot be avoided and for impacts that are determined by USACE to be on waters of the United States for construction related to the Proposed Transaction.

VM 9. To minimize sedimentation into streams and waterways during construction, Applicants will use Best Management Practices (BMPs), such as silt fences and straw bale dikes, to minimize soil erosion, sedimentation, runoff, and surface instability during Transaction-related construction activities. Applicants will seek to disturb the smallest area possible around any streams and will conduct reseeded efforts to ensure proper revegetation of disturbed areas as soon as reasonably practicable following Transaction-related construction activities.

VM 10. In order to control erosion, with respect to jurisdictional waters of the U.S., Applicants will establish staging and lay down areas for Transaction-related construction material and equipment in accord with the requirements of permits issued by the USACE and in areas that are not environmentally sensitive. Applicants will not clear any vegetation between the staging area and the waterway or wetlands. To the extent reasonably practicable, areas with non-jurisdictional isolated waters will not be used for staging and lay down and will only be impacted when necessary for construction. When Transaction-related construction activities, such as culvert and bridgework, require work in streambeds, Applicants will conduct these activities, to the extent reasonably practicable, during low-flow conditions.

VM 11. During Transaction-related construction activities, Applicants will require all contractors to use BMPs, including daily inspections of all equipment for any fuel, lube oil, hydraulic, or antifreeze leaks. If leaks are found, Applicants will require the contractor to immediately remove the equipment from service and repair or replace it.

VM 12. Applicants will employ BMPs to control turbidity and disturbance to bottom sediments of surface waters during Transaction-related construction. Applicants will implement BMPs in wetlands or other waters of the U.S. to avoid adverse downstream impacts on fish, mussels, and other aquatic biota.

VM 13. During Transaction-related construction, Applicants will prohibit construction vehicles from driving in or crossing streams at other than established crossing points unless approved by appropriate federal or state permits.

VM 14. During Transaction-related construction activities, Applicants will, to the extent reasonably practicable and consistent with BMPs, ensure that any fill placed below the ordinary high water line of wetlands and streams is appropriate material selected to minimize impacts to the wetlands and streams. All stream crossing points will be returned to their pre-construction contours to the extent reasonably practicable and the crossing banks will be reseeded or replanted with native species immediately following project-related construction.

VM 15. Applicants will obtain a National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit from U.S. Environmental Protection Agency (USEPA) or appropriate state agencies for Transaction-related construction activities that warrant such compliance.

VM 16. Prior to any Transaction-related construction activities, Applicants will comply with any regulations required in the preparation of a construction Stormwater Pollution Prevention Plan.

Biological Resources

VM 17. Before beginning any Transaction-related construction activity, Applicants will survey all suitable habitats potentially impacted by the construction activity for state-listed threatened or endangered plant species. If any listed plant species are located, Applicants will implement a mitigation plan in consultation with the appropriate federal and state agencies.

VM 18. In order to avoid a take of the federally endangered Indiana bat, Applicants will not clear trees during its roosting period (April 1 – September 30).

VM 19. During Transaction-related construction, temporary barricades, fencing, and/or flagging will be used in sensitive habitats to contain construction-related impacts to the area within the existing right-of-way.

VM 20. Applicants will employ BMPs to implement their current noxious weed control program during construction and operation of Transaction-related potential siding extensions. Applicants will only use herbicides that have been approved by USEPA.

Air Quality

VM 21. To minimize fugitive dust emissions created during Transaction-related construction activities, Applicants will implement appropriate fugitive dust suppression controls, such as spraying water or other approved measures. Applicants will also regularly operate water trucks on haul roads to reduce dust.

VM 22. Applicants will work with their contractors to make sure that Transaction-related construction equipment is properly maintained and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air emissions.

Noise and Vibration

VM 23. Applicants will consult with affected communities and work with the construction contractors to minimize, to the extent reasonably practicable, Transaction-related construction noise disturbances near any residential areas.

Topography, Geology, and Soils

VM 24. Applicants will commence reclamation of disturbed areas as soon as reasonably practicable after Transaction-related construction ends along a particular stretch of the L&I Line. The goal of reclamation will be the rapid and permanent reestablishment of native ground cover on disturbed areas. If weather or season precludes the prompt reestablishment of vegetation, Applicants will use measures such as mulching or erosion control blankets to prevent erosion until reseeding can be completed.

VM 25. Applicants will limit ground disturbance to only the areas necessary for Transaction-related construction activities.

VM 26. Applicants will review the limits of land disturbance prior to Transaction-related construction to determine whether any U.S. Department of Commerce, National Geodetic Survey monuments (that is, a government-owned permanent survey marker) would be disturbed. If any survey monuments would be disturbed, Applicants will give a 90-day notification to the National Geodetic Survey.

VM 27. Applicants will require contractors to dispose of waste generated during Transaction-related construction activities in accordance with all applicable federal, state, and local regulations.

VM 28. Applicants will make reasonable efforts to identify all utilities that have agreements with either Applicant and that are reasonably expected to be materially affected by Transaction-related construction within their existing right-of-way or that cross their existing right-of-way. Applicants will notify the owner of each such utility identified prior to commencing Transaction-related construction activities and will coordinate with the owner to minimize damage to utilities. Applicants will also consult with utility owners to ensure that utilities are reasonably protected during Transaction-related construction activities.

VM 29. During Transaction-related construction activity, Applicants will take reasonable steps to ensure contractors use fill material appropriate and in accordance with applicable regulations for the project area.

Operations-related VMs

The following VMs apply to rail line operations. Unless otherwise specified below, L&I shall apply these VMs to rail operations on the L&I Line, and CSXT shall apply these VMs to rail operations on the Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

Power Switches

VM 30. Applicants will install power switches along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection where they determine that manual switches could cause stopped trains to block grade crossings for excessive periods of time and that power switches would increase the speed of rail traffic and reduce the likelihood of such blockages.

Transportation

VM 31. Applicants will examine train operations to identify reasonable ways to reduce highway/rail at-grade crossing blockages.

VM 32. Applicants will cooperate with the appropriate state and local agencies and municipalities to:

- Evaluate the possibility that roadways listed in the Supplemental EA, Appendix B, Attachment B-3 and Draft EA, Appendix C, Table C-1 could be closed at the point where they cross the Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, Louisville Connection or L&I Line to eliminate the at-grade crossings;
- Improve or identify modifications to roadways that would reduce vehicle delays by improving roadway capacity over the crossing by construction of additional lanes;
- Assist in a survey of highway/rail at-grade crossings for a determination of the adequacy of existing grade crossing signal systems, signage, roadway striping, traffic signaling inter-ties, and curbs and medians; and
- Identify conditions and roadway, signal, and warning device configurations that may trap vehicles between warning device gates on or near the highway/rail at-grade crossing.

Grade Crossing Safety

VM 33. Applicants will coordinate with INDOT, Ohio Department of Transportation (ODOT), or KYTC, as appropriate and, counties and affected communities along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary

Branch, and Louisville Connection to install temporary notification signs or message boards, where warranted, in railroad ROW at highway/rail at-grade crossings, clearly advising motorists of the increase in train traffic on affected rail line segments. The format and lettering of these signs will comply with the Federal Highway Administration's (FHWA's) Manual on Uniform Traffic Control Devices (FHWA 2012) and will be in place no less than 30 days before and 6 months after Applicants' initiate operational changes associated with the Proposed Transaction.

VM 34. Within 6 months of acquisition of a freight easement over the L&I Line, Applicants will cooperate with INDOT, ODOT, and KYTC as well as appropriate local agencies to coordinate a review of corridors surrounding highway/rail at-grade crossings to examine safety and adequacy of the existing warning devices, and identify remedies to improve safety for highway vehicles.

VM 35. Within 6 months of Applicants' initiating operational changes associated with the Proposed Transaction, Applicants will cooperate with residential communities, schools and park districts to identify at-grade crossings where additional pedestrian warning devices may be warranted.

VM 36. For up to 3 years from the date that Applicants' initiate operational changes associated with the Proposed Transaction, CSXT will make Operation Lifesaver[®] programs¹ available to communities, schools, and other appropriate organizations located along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

VM 37. For each of the public grade crossings on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection, CSXT will provide and maintain permanent signs prominently displaying both a toll-free telephone number and a unique grade-crossing identification number in compliance with Federal Highway Administration regulations (23 Code of Federal Regulations [C.F.R.] Part 655). The toll-free number will enable drivers to report accidents, malfunctioning warning devices, stalled vehicles, or other dangerous conditions and will be answered 24 hours per day by Applicants' personnel.

VM 38. Applicants will continue ongoing efforts with community officials to identify elementary, middle, and high schools within 0.5 mile of the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection ROW and provide, upon request, informational materials concerning railroad safety to such identified schools.

VM 39. Applicants will consult with state departments of transportation and other appropriate agencies and will abide by the reasonable requirements of INDOT, ODOT, and KYTC prior to constructing, relocating, upgrading, or modifying highway/rail at-grade crossing warning devices

¹ Operation Lifesaver[®] is rail safety education program with a goal to end collisions, deaths and injuries at highway-rail grade crossings and on railroad property through a network of volunteers who work to educate people about rail safety.

on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

Hazardous Materials Transportation

VM 40. Applicants will assist in the hazardous materials training of emergency responders for affected communities that express an interest in such training. Applicants will support through funding or other means the training of one representative from each of the communities located along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection where the transportation of hazardous materials would increase. Applicants will complete the training within 3 years from the date that they initiate operational changes associated with the Proposed Transaction.

VM 41. Applicants will comply with the current Association of American Railroads (AAR) “key train” guidelines, found in AAR Circular No. OT-55-N (2013), and any subsequent revisions.

VM 42. Applicants will comply with all hazardous materials regulations of the U.S. Department of Transportation (including FRA and the U.S. Pipeline and Hazardous Materials Safety Administration) and Department of Homeland Security (including the Transportation Security Administration). Applicants will dispose of all hazardous materials that cannot be reused in accordance with applicable law.

VM 43. Upon request from local emergency response organizations, Applicants will implement real-time or desktop simulation emergency response drills with the voluntary participation of local emergency response organizations.

VM 44. Applicants will continue their ongoing efforts with community officials to identify the public emergency response teams located along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection, and will provide, upon request, hazardous material training.

VM 45. Applicants will, upon request, conduct Transportation Community Awareness and Emergency Response Program workshops (training for communities through which hazardous materials are transported) in communities along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

VM 46. Applicants will develop internal transportation emergency response plans to allow for agencies to be notified in an emergency, and to locate and inventory the appropriate emergency equipment. Applicants will provide the transportation emergency response plans to the relevant state and local authorities within 6 months of acquisition of a freight easement over the L&I Line.

VM 47. Applicants will incorporate the L&I Line into their existing Transportation Emergency Response Plan (TERP).

VM 48. In accordance with their TERPs, Applicants will make the required notifications to the appropriate federal and state environmental agencies in the event of a reportable hazardous materials release. Applicants will work with appropriate agencies such as U.S. Fish and Wildlife Service (USFWS), Indiana Department of Environmental Management (INDEM), Ohio Environmental Protection Agency, and Kentucky Department for Environmental Protection to respond to and remediate hazardous materials releases with the potential to affect wetlands or wildlife habitat(s), particularly those of federally threatened or endangered species. Applicants will adhere to all U.S. Environmental Protection Agency (USEPA) regulations described in 40 C.F.R. Part 263 and will coordinate with USEPA, state agencies, and local agencies on spill responses.

Emergency Response

VM 49. Applicants will notify appropriate Emergency Services Dispatching Centers on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection of all crossings blocked by trains that are stopped and may be unable to move for a significant period of time. Applicants will work with affected communities to minimize emergency vehicle delay by maintaining facilities for emergency communication with local Emergency Response Centers through a dedicated toll-free telephone number.

Water Resources

VM 50. Applicants will maintain drainage ditches typical of railroad drainage ditches to provide stormwater retention and treatment in accordance with NPDES requirements. Removal of accumulated sediments will be conducted only as necessary to maintain stormwater retention capacity and function.

Biological Resources

VM 51. Applicants will ensure that any herbicides used in right-of-way maintenance to control vegetation are approved by USEPA and are applied by licensed individuals. Application will be limited to the extent necessary for rail operations. Herbicides will be applied so as to prevent or minimize drift off of the right-of-way onto adjacent areas.

Energy Resources

VM 52. Applicants, to the extent reasonably practicable, will adopt efficient fuel saving practices that may include a range of operating practices that will help reduce locomotive emissions, such as shutting down locomotives when not in use and when temperatures are above 40 degrees.

VM 53. Applicants will comply with USEPA emissions standards for diesel-electric railroad locomotives (40 C.F.R. Part 92) when purchasing and rebuilding locomotives.

Noise and Vibration

VM 54. Applicants will work with affected communities that have noise-sensitive receptors that would experience an increase of at least 5 A-weighted decibels (dBA) and reach 70 dBA, because of Transaction-related train increases, to mitigate train noise to levels as low as 70 dBA by cost-effective means as are agreed to by an affected community and Applicants. In the absence of such an agreement, Applicants will implement cost-effective mitigation.

VM 55. Applicants will cooperate with interested communities along the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection for the establishment of quiet zones (QZs) and assist in identifying supplemental or alternative safety measures, practical operational methods, or technologies that may enable the community to establish QZs.²

VM 56. Applicants will work with their contractors to maintain Transaction-related maintenance vehicles in good-working order with properly functioning mufflers to control noise.

VM 57. In addition to the development of other noise mitigation measures, Applicants will consider lubricating curves where doing so would both be consistent with safe and efficient operating practices and significantly reduce noise for residential or other noise-sensitive receptors. Applicants will also continue to employ safe and efficient operating procedures that, in lieu of, or as complement to, other noise mitigation measures can have the collateral benefit of effectively reducing noise from train operations. Such procedures will include:

- Inspecting rail car wheels to maintain wheels in good working order and minimize the development of wheel flats;
- Inspecting new and existing rail for rough surfaces and, where appropriate, grinding these surfaces to provide a smooth rail surface during operations; and
- Regularly maintaining locomotives and keeping mufflers in good working order.

VM 58. Applicants will comply with FRA regulations establishing decibel limits for train operations.

VM 59. To minimize noise and vibration, Applicants will install and maintain rail and rail beds according to AREMA standards.

VM 60. Upon request, Applicants will consult with communities affected by wheel squeal at existing locations on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection, and cooperate in determining the most appropriate methods for implementing VM 57.

VM 61. Because the residential neighborhoods adjacent to the Indianapolis Terminal Subdivision – Louisville Secondary Branch in Indianapolis, Indiana, would experience potentially adverse noise impacts from increased train activity associated with the Proposed Transaction, CSXT will host two meetings in the subject neighborhoods to explain the increased train activity and solicit community concerns about the increases in train-related noise. CSXT

² Applicants' willingness to cooperate does not commit Applicants to expend funds on a physical project.

will schedule the meetings within 6 months of Applicants executing the Transaction agreement and will publicize the meetings in advance. Within 60 days after the meetings are held, CSXT will provide a meeting report to the Board's Office of Environmental Analysis (OEA) and any meeting attendees who request it. The report will specify CSXT's responses to the concerns raised at the meetings.

Monitoring and Enforcement

VM 62. Upon approval of the Application by the Board, Applicants will submit semi-annual reports to OEA on the progress of, implementation of, and compliance with the mitigation measures for a period covering the first 3 years of operational changes.

2.5 OEA's Additional Mitigation Measures

Based on available project information and comments received on the Draft EA and Supplemental EA, OEA recommends that the Board impose the following 22 additional mitigation measures (MMs) in any decision authorizing the Proposed Transaction. The MMs include mitigation from the Draft EA and Supplemental EA, mitigation from those prior documents that has been clarified or revised, as appropriate, in this Final EA, and new recommended mitigation developed to address environmental comments received by OEA. Unless otherwise specified in the conditions, L&I shall apply the MMs that pertain to rail operations on the L&I Line, and CSXT shall apply the MMs that pertain to rail operations on the Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.

Transportation

MM 1. To address potential safety impacts at public at-grade crossings, Applicants shall submit a Grade Crossing Mitigation Plan (GCMP) to OEA prior to moving Transaction-related train traffic on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection. In preparing the GCMP, Applicants shall meet with INDOT, ODOT, and KYTC within 90 days of the effective date of any Board approval of the Proposed Transaction to begin determining the need for grade crossing protection upgrades at each public at-grade crossing on the subject rail lines. These discussions shall also address grade crossing maintenance, including the clearing of vegetation to maintain lines-of-sight.

Within 90 days of meeting with INDOT, ODOT and KYTC, Applicants shall provide OEA with a draft annotated outline of the GCMP for OEA review and concurrence. The draft annotated outline shall describe the contents of the GCMP and an implementation schedule for identified crossing upgrades. Applicants shall submit the GCMP to OEA within 90 days of receiving OEA's concurrence on the draft annotated outline. Subsequently, any updates to, and the implementation status of the GCMP shall be included in the semi-annual mitigation and monitoring reports that Applicants will be required to provide as part of the Board's mitigation.

MM 2. To the extent practicable, Transaction-related potential siding extensions shall be located and designed to minimize blockages of public at-grade crossings by slow-moving trains entering and exiting the sidings.

MM 3. To supplement VM 49, once Transaction-related train traffic begins to move on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection, Applicants shall promptly notify the appropriate Emergency Services Dispatching Center(s) when a stopped or slowly moving train will not clear a public at-grade crossing within 10 minutes.

MM 4. To supplement VM 35, 6 months prior to Applicants initiating operational changes associated with the Proposed Transaction, Applicants shall consult with residential communities, schools and park districts to work cooperatively to identify at-grade crossings where additional pedestrian warning devices may be warranted.

MM 5. Before Transaction-related train traffic begins to move on the L&I Line, Applicants shall evaluate the need to replace manual switches with power switches in the vicinity of at-grade crossings on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection that would experience either a degradation of Level of Service by one or more levels, or a vehicle delay of over 40 vehicle hours per day as a result of the Proposed Transaction.

MM 6. Before Transaction-related train traffic begins to move on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection, Applicants shall consult with the USEPA Region 5's Office of Enforcement and Compliance Assurance, NEPA Implementation Section regarding potential reasonable mitigation measures that could reduce Transaction-related noise impacts. These measures could include, as appropriate, wheel inspections, lubrication of rail curves, frequency of rail lubrication, and the use of continuous welded rail, resilient track fasteners and tire-derived aggregate.

MM 7. To assist with the timely response of emergency service providers in Seymour, Indiana, Applicants shall consult with Schneck Medical Center, the Jackson County Emergency Medical Service and the Seymour Fire Department regarding the installation of an appropriate closed-circuit television system (CCTV) with video cameras (or other comparable system or acceptable option) so that train movements and blocked at-grade crossings within the City of Seymour can be monitored in real time by each of the above three parties. Applicants shall pay for the necessary equipment, equipment installation, and equipment training for up two individuals from each of the three parties identified above. Applicants shall work with the three parties to determine specifications and scheduling for the installation of the system. Once installed and operational, Applicants shall be responsible for the ongoing maintenance of the system.

MM 8. Applicants shall coordinate with the appropriate state departments of transportation, counties and affected communities along the L&I Line to develop a program for installing temporary notification signs or message boards in the Line's right-of-way at each of the L&I Line's 154 public at-grade crossings, clearly advising motorists of the pending increase in the

number, length and speed of trains on the L&I Line. The format and lettering of these signs shall comply with the Federal Highway Administration's 2007 Manual on Uniform Traffic Control Devices. The signs shall be installed no less than 30 days before Transaction-related train traffic begins moving on the L&I Line, and shall remain in place for at least six months after Transaction-related train traffic begins moving on the L&I Line. Applicants shall provide OEA written notice when installation of the signage has been completed at all 154 public at-grade crossings. At least 30 days before any Transaction-related train traffic begins to move on the L&I Line, Applicants shall also publish a notice in a newspaper of general circulation in each county in which the L&I Line is located to advise residents of the pending increase in the number, length and speed of trains on the L&I Line.

Water Resources

MM 9. Prior to initiating Transaction-related construction activities within floodplains, Applicants shall obtain a Construction in a Floodway Permit from the Indiana Department of Natural Resources.

MM 10. Prior to initiating Transaction-related construction activities, Applicants shall consult with the INDEM and comply with the reasonable requirements of any INDEM-required permits for Transaction-related activities that would affect isolated wetlands and state waters.

MM 11. During Transaction-related construction, should impacts on forested areas occur within the floodway of the Flatrock River, impacts shall be mitigated by Applicants in accordance with the Indiana Natural Resources Commission's Information Bulletin #17 addressing floodway habitat mitigation (2014).

MM 12. Prior to initiating Transaction-related construction activities within waters of the United States including wetlands, Applicants shall obtain a Section 404 permit under the Clean Water Act from USACE, as applicable. Applicants shall make appropriate USACE-approved accommodations in waterways where transaction-related construction activities occur to allow for the passage of expected normal and high flows, and to avoid impeding aquatic life movements.

MM 13. Prior to initiating Transaction-related construction activities within waters of the U.S. including wetlands, Applicants shall obtain a Water Quality Certification from INDEM, as applicable.

Biological Resources

MM 14. During replacement of the Flatrock River Bridge, and the extension of any other culverts and bridges associated with the extension of sidings at Elvin or Brook, if constructed, Applicants shall avoid stream channel disturbance during the primary fish spawning season (April 1 through June 15).

MM 15. Applicants shall clear vegetation in preparation for project-related construction before or after the typical migratory bird nesting season identified by the USFWS (typically May 1 to

July 15), to the extent possible, in order to comply with the Migratory Bird Treaty Act. If clearing is required during the nesting season, Applicants shall conduct a nest survey and consult with USFWS, prior to clearing the vegetation, to identify additional appropriate compliance measures.

MM 16. Prior to initiating replacement of the Flatrock River Bridge, Applicants shall consult with USFWS to assess the need to conduct field surveys of federally listed threatened or endangered mussel that may occur in the Flatrock River in the vicinity of the bridge, and identify any appropriate mitigation measures that may be warranted. Applicants shall report the results of the USFWS consultations to OEA in writing prior to commencing bridge replacement activities.

MM 17. Prior to initiating replacement of the Flatrock River Bridge, Applicants shall consult with the Indiana Department of Natural Resources on the presence of state- listed threatened or endangered mussel species that may occur in the Flatrock River in the vicinity of the subject bridge. As appropriate, Applicants shall conducted surveys for state-listed threatened or endangered mussel species and comply with reasonable mitigation requirements.

MM 18. Applicants shall consult with the USEPA Region 5's Office of Enforcement and Compliance Assurance, NEPA Implementation Section regarding appropriate BMPs to control non-native invasive plants species and noxious weeds during Transaction-related construction on the L&I Line.

Historic Preservation

MM 19. Applicants shall retain their interest in and take no steps to alter the historic integrity of the Flatrock River Bridge until a Section 106 Memorandum of Agreement, which sets forth a process to complete bridge documentation and resolve adverse effects of the undertaking, has been executed by the Indiana State Historic Preservation Office (SHPO), CSXT, L&I, and the Board.

MM 20. In the event that any unanticipated archaeological sites, human remains, funerary items, artifacts protected under the Native American Graves Protection and Repatriation Act, or associated artifacts are discovered during Transaction-related construction activities, Applicants shall immediately cease all work in the immediate area (which is no greater than a 100-foot radius from the discovery) of the discovery and will notify OEA, interested federally recognized tribes, and the Indiana SHPO or Kentucky SHPO, as appropriate, pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested federally recognized tribes, the railroads, and other consulting parties, if any, to determine whether additional mitigation measures are necessary.

MM 21. If any Transaction-related ground disturbance would occur within 100 feet of a cemetery in Indiana, Applicants shall prepare a Cemetery Development Plan (Plan) and shall submit the Plan to the Indiana SHPO for review and approval before the ground disturbance occurs.

Community Liaison

MM 22. In response to concerns related to Transaction-related noise, emergency response and other local issue areas, Applicants shall establish a Community Liaison to consult with affected communities, businesses, and appropriate agencies; develop cooperative solutions to local concerns; be available for public meetings; and conduct periodic public outreach. Applicants shall establish and staff the Community Liaison position within 6 months of any Broad approval of the Proposed Transaction. The Community Liaison shall remain available to the communities until the end of the third year after the first Transaction-related trains move on the L&I Line, Indianapolis Line Subdivision, Indianapolis Terminal Subdivision – Louisville Secondary Branch, and Louisville Connection.