

BEFORE THE
SURFACE TRANSPORTATION BOARD

301747

ENTERED
Office of Proceedings
March 12, 2021
Part of
Public Record

Finance Docket No. 36447

LAKE PROVIDENCE PORT COMMISSION
--FEEDER LINE APPLICATION--
LINE OF DELTA SOUTHERN RAILROAD LOCATED IN
EAST CARROLL AND MADISON PARISHES, LA.

RESPONDENTS' REPLY TO DELTA SOUTHERN
RAILROAD, INC.'S MOTION TO STRIKE

Lake Providence Port Commission (LPPC), Southeast Arkansas
Economic Development District (SEAEDD), Madison Parish Port
Commission (MPPC), and North Louisiana & Arkansas Railroad (NLA),
(hereinafter jointly referred to as "Respondents"), by and through counsel
of record, request the Board to deny the Motion to Strike Respondents'
Reply to DSR's motion to dismiss filed by Delta Southern Railroad, Inc.
(DSR).

**The Board's Decision Served March 9, 2021 Has Mooted
DSR's Claims Concerning Allegations Of Procedural
Prejudice And The Deprivation Of Due Process**

Given the Board's determination to suspend the procedural
schedule, Respondents will not address the merits of DSR's assertion
that they have "impermissibly [attempted] to introduce new allegations
and argument into the record in a manner that is procedurally

prejudicial to DSR.”¹ Such contentions are moot in that DSR will have an ample time to respond to all evidence that is of record.

Respondents, however, will not waive their unquestionable right to respond to factual and legal arguments that DSR has voiced in its Motion to Dismiss, filed March 2, 2021, and in its factual and legal arguments set forth in its Motion to Strike filed March 8, 2021. DSR is not entitled to a free ride.

**If The Feeder Application Is Fatally Defective, There
Is No Need To Engage In Discovery Or Waste The
Board’s And The Respondents’ Resources.**

In its Motion to Dismiss, DSR argues that LPPC failed in its Feeder Line Application to articulate any DSR service inadequacy. That argument is based on the claim that “[t]he entire 20-miles of the Line that is the subject of LPPC’s Feeder Line application has no active customers. Indeed, there have been none on the Line for more than three years.”² DSR also claims that “DSR is not aware of, and has not been approached by, any prospective customers seeking to originate or terminate traffic from any point along the Line.”³ DSR then argues that “LPPC has not alleged, much less established, that any customer on the “Line” is suffering from inadequate DSR service – an essential element of

¹ Motion to Strike at pp. 1, 3, 4, n. 2 at p.4, 6 and 7.

² Motion to Dismiss at p. 3. It is noted that DSR refers to the “roughly 20-mile portion of DSR’s railroad as the “Line.” *Id.* The same is true in its Motion to Strike. See Motion to Strike at p. 2. There is, of course, an obvious distinction between a “Segment of a Line” and an entire Line.

³ *Id.* at p. 3.

a feeder line application.”⁴ In its Motion to Strike, DSR has continued to argue that the Feeder Line Application is fatally deficient.”⁵ In addition, it now insists that the Respondents have attempted impermissibly introduced new allegations, evidence and argument into the record “in an effort to shore up the fatal deficiencies of LPPC’s Feeder Line Application.”⁶

Because Respondents and their counsel are clearly entitled to respond to definitive arguments that could lead to the dismissal of the Feeder Application if not rebutted, they must be permitted to respond by pointing to evidence that is contained in the Application and offer additional evidence to counter DSR’s false claims.⁷

**The Feeder Application Is Not Fatally Deficient:
Because DSR Overhead Service Is Not Available At All, It
Is, A Fortiori, An Inadequate Level Of Service.**

There is nothing to support DSR’s contention that “even if Section 10907 were intended to remedy overhead route inadequacies for customers not located on the “Line” itself, the Feeder Line Application fails to allege, much less demonstrate, any such service inadequacy as is necessary to obtain relief under the statute.”⁸ DSR’s argument disregards the fact that LPPC’s Feeder Application consists of multiple parts,

⁴ *Id.* at p. 4.

⁵ Motion to Strike at p. 1.

⁶ *Id.*

⁷ Rather than repeat the arguments advanced in Respondents’ Reply to DSR’s Motion to Dismiss, such arguments are incorporated by reference.

⁸ Motion to Dismiss at 5.

including the FY 19-20 INFRA Grant Application, multiple Verified Statements, and letters of support from affected shippers and even DSR. In his Verified Statement, Mr. Robbins testified that there are multiple customers on the NLA track, which is part of the Corridor, “that cannot be served due to DSR’s repeated refusal to accept interchange at Lake Providence.”⁹ He also identified multiple instances when DSR declined to interchange traffic with NLA at MP 471.¹⁰ Such evidence not only plainly demonstrates the adverse impact on shippers caused by DSR’s inadequate service, that evidence also reflects the adverse financial impact on NLA.

In his Verified Statement, Mr. Robbins also testified that he has sought to market rail service along the entire Corridor between McGehee, Arkansas and Tallulah, Louisiana consistent with its statutory railroad-common-carrier obligations. Most importantly, he named multiple shippers that could not be served due to DSR’s repeated refusal to accept interchange at Lake Providence.¹¹

In its Motion to Dismiss, DSR claimed that it “is not aware of, and has not been approached by, any prospective customers seeking to originate or terminate traffic from any point along the Line.”¹² In its Motion to Strike, DSR doubles down by claiming that the “Line” “has no

⁹ Feeder Application at Ex. 4, ¶¶ 7–10.

¹⁰ *Id.* at ¶ 8.

¹¹ Feeder Application, Ex. 4 at ¶¶ 6 – 7.

¹² Motion to Dismiss at p. 3.

customers, and no shippers that use the Line (there are none, currently) have alleged, much less demonstrated, inadequate DSR service.”¹³ This position simply ignores the fact that the mainline is located within the Segment that is blocked by several miles of stored rail cars. Until the entire Corridor, including the Segment at issue, is rebuilt, and the Corridor is open and used to provide active rail service, rail transportation service will continue to be inadequate.

DSR’s statements that no shippers have expressed a need to originate or terminate a movement between MP 471 and 491 or to move traffic over the “Line” are false. Such statements must be challenged at this time. Otherwise, the Board, in ruling on DSR’s Motion to Dismiss, could be left with a false impression of what has been happening over the past few years.

As Robbins’ Supplemental Response to DSR’s First Set of Interrogatories reflects, the information provided therein “is related to and obtained through conversations with shippers, [Delta Southern Railroad, Inc.], Union Pacific Railroad and Kansas City Southern that predated August 2020.”¹⁴ As his sworn statement also reflects, most all of that “information is in the INFRA Grant Application.”¹⁵ Moreover,

¹³ Motion to Strike at 4.

¹⁴ Supplemental Response at p. 1. As also stated, emails reflecting said conversations will be presented to the Board under seal insofar as the involve highly confidential proprietary information.

¹⁵ Robbins Supplemental Response at p. 4.

because former DSR employees Craig Huff, Matt Prince, and J. D. Ventrcek actively worked with Mr. Robbins in trying to develop new traffic that would move over the Segment, DSR cannot disavow knowledge about the potential traffic that its operations, or lack thereof, actively discouraged.

In short, Mr. Robbins' sworn testimony was not intended to shore up any deficiency in the Feeder Application. Instead, it was intended to provide explicit evidence of DSR's knowledge of multiple shippers who have recently expressed a need for adequate, through rail transportation service over the Segment. Given the Board's March 9, 2021 decision, the evidence should not be stricken when the Board considers the merits of DSR's Motion to Dismiss.

Evidence Of Record Reflects The Unquestioned Need To Rebuild DSR's Tracks

When considering DSR's claims regarding its *current* willingness and ability to accommodate DSR-NLA interchange, the Board should recognize that unless the track is rehabilitated and opened for active rail traffic instead of car storage, no interchange traffic will move. The need to rehabilitate the track is not open to debate.

Although DSR denies the allegation that the "portions of the line are 'impassable',"¹⁶ the Board should note that DSR in 2019 estimated

¹⁶ Motion to Strike at p. 5.

that it would cost \$11,448,000 to rehabilitate its track.¹⁷ That estimate clearly reflects the extreme extent of the track's deterioration. On a per mile basis, the cost of rehabilitating DSR's portion of the Corridor is far greater than any of the other segments. Whereas Segment A reflects an average per mile cost of \$230,007, Segment B reflects a cost of \$86,774, Segment C reflects a cost of \$158,320, Segment D reflects a per mile cost of \$392,055. This means that it likely to take approximately \$7,841,100 to rehabilitate the 20 miles at issue herein.

Per SEAEDD's March 17, 2020 Request for Change of Scope and Justification,¹⁸ which was approved by USDOT/FRA on June 1, 2020,¹⁹ the INFRA Cost Share for Rail Infrastructure Rehabilitation for the 29.2 miles from MP 500.2 to MP 471 was set at \$3,207,789. Furthermore, FRA's Scope of Work imposed the restriction that the INFRA Grant funds cannot be used for any purpose other than the rehabilitation of the tracks that LPPC seeks to acquire absent USDOT/FRA's prior approval.

The Statement of Work in the Executed Grant Agreement, dated January 15, 2021, explicitly requires that the \$3,207,789 will be used to:

Rehabilitate approximately 24 miles of track which includes upgrading the existing Excepted track to Class 2 track by

¹⁷ INFRA Grant Application at p. 5 (Table 1).

¹⁸ Attachment 1 hereto.

¹⁹ Attachment 2 hereto.

replacing rail, ties, ballas and other track materials (OTM)(spikes, plates, track anchors etc.), as needed.”²⁰

The Statement of Work in the Executed Grant Agreement explicitly requires that the \$3,207,789 will be used to:

Rehabilitate approximately 24 miles of track which includes upgrading the existing Excepted track to Class 2 track by replacing rail, ties, ballas and other track materials (OTM)(spikes, plates, track anchors etc.), as needed.”²¹

Because DSR would only agree to use the funds to upgrade its tracks between MP 500 and 491, which, on August 21, 2020, it projected would cost \$2,503,596,²² that would have left only \$704,193 to be spent on the 20 miles of track located in the Segment between MP 491 and MP 471. However, the portion of its track between MP 491 and MP 500 has never been included in the FRA approved scope or work or the INFRA Application. As a result, DSR’s proposal would have required some other entity to fund the remaining \$2,503,596 needed to rehabilitate the tracks located on the 20-mile Segment between MP 471 and 491 so that rail traffic could traverse the length of the entire Corridor, which was the objective of the INFRA Application.

²⁰ The Excepted track refers to the tracks that DSR has described as being “an inactive railroad line,” a “long-out-of-service railroad line” or a “long dormant-Line.”

²¹ The Excepted track refers to the tracks that DSR has described as being “an inactive railroad line,” a “long-out-of-service railroad line” or a “long dormant-Line.”

²² See Attachment 3 hereto.

Given its prior inability to provide any matching funds, DSR lacks the financial ability to fund its share of the rehabilitation project.²³ That DSR lacks the financial ability to rehabilitate the tracks should not bar LPPC from acquiring the tracks in order to restore active rail service over the entire Corridor. If service is to be restored over the Segment, it plainly supports LPPC's acquisition of the Segment.

Despite DSR's characterization of the track as being long dormant, this 20-mile segment has long been, and still is, a vital component of the Corridor. Hence, it must be rehabilitated to reopen the entire Corridor to active rail transportation service consistent with USDOT's conclusion that the rebuilding of the entire Corridor is a "Nationally Significant Freight and Highway Project."²⁴

DSR is unable to correlate its "long-out-of-service" claim with its alleged current willingness and ability to accommodate interchange. To avoid the issue, DSR now insists that there is no need for interchange service over the Line and that LPPC is misusing the feeder line statute as "a tool for forging more cost-advantageous route options for opportunistic freight shippers".²⁵ Nothing could be further from the truth. Without

²³ On September 21, 2017, Matt Prince, DSR's Director of Operations sent Daniel Robbins an email in which he stated that "We bowed out of the grant application for the time being as we simply cannot afford to spend the cash right now." At the time, DSR was unable to fund its share of the cost of hiring HDR to prepare the initial INFRA Grant application. DSR's share of that cost would have been less than \$20,000.00.

²⁴ Final Statement of Work at p. 1.

²⁵ Motion to Strike at p. 4.

question, until DSR recognized that that USDOT would not pay for the entire cost of rehabilitating its entire line of trackage, USDOT, LPPC, SEAEDD, MPPC, NLA and DSR appeared to have unanimously recognized that rebuilding the entire Corridor is a “Nationally Significant Freight and Highway Project.”²⁶ The “Project benefits” enunciated by USDOT, include:

- “Enhanced railroad transportation operating capacity, efficiency, and safety.
- Improved rail access/connectivity and capacity.
- Enhanced economic development through additional rail business opportunity throughout the entire corridor.”

Because LPPC’s acquisition and rehabilitation of the tracks will achieve those benefits, it must be allowed to acquire the Segment.

LPPC’s acquisition of the Segment is unquestionably consistent with the National Rail Transportation Policy. As 49 U.S.C. § 10101(5) explicitly provides, “In regulating the railroad industry, it is the policy of the United States Government – to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carrier and other modes.” The foregoing clearly supports LPPC’s effort to acquire and rebuild the “long dormant” Segment. It also supports the related efforts of LPPC, MPPC, SEAEDD and NLA to rebuild

²⁶ Final Grant Agreement, Statement of Work at p. 1.

the entire Corridor. There is nothing positive to be served by dismissing LPPC's Feeder Application.

DSR has chosen to use the mainline of its track located in the Segment of the Corridor between MP 491 and MP 471 for storage of freight cars. That this was done instead of rehabilitating the Segment to offer services to new customers of which it was made aware, clearly demonstrates that DSR is not interested in marketing or offering service over the track consistent with its statutory rail-common-carrier obligations. While it now chooses to hide behind the availability of alternative overhead routes, there is nothing to suggest that the potential existence of circuitous and more expensive alternative overhead routes negates the feeder statute provisions. Without question, the sale to LPPC will further the public convenience and necessity by making adequate rail service available for shippers that wish to transport traffic over the entirety of the Line to take direct advantage of both UP's and KCS's extensive rail systems following rehabilitation of the entire Corridor.

LPPC Is Not Seeking A Taking Without Just Compensation.

While DSR accuses NLA of joining with LPPC in seeking, "*with the Board's aid*, to accomplish a taking without just compensation to DSR,"²⁷ there is not a shred of evidence to support that claim. As the Feeder Application plainly reflects, LPPC has agreed to pay the

²⁷ Motion to Strike at p. 6 (emphasis added).

constitutional minimum value of the track, which fully satisfies the requirements of the Feeder Line statutory provisions. Neither Mr. Robbins nor Mr. Gilfoil have played any role in determining the Segment's NLV.

The facts are crystal clear. While DSR emphasizes in print that it is currently willing and able to accommodate DSR-NLA interchange using the long dormant segment of track, its actions belie its words. There is no avoiding DSR's own characterization of the segment of track that is at issue herein. Following USDOT's denial of INFRA Funds that would have completely covered the entire cost of rehabilitating the "long dormant" Segment, DSR has no intent whatsoever to assume any of the cost of revitalizing that Segment with its own capital funds.

The Board is urged to expeditiously rule on all pending matters that caused it to suspend the procedural schedule, including DSR's Motion to Dismiss LPPC's Feeder Application. The public interest is not served by delaying the rehabilitation of the entire Corridor given USDOT's finding that an INFRA Grant, accompanied by matching funds contributed by the State of Louisiana and NLA, is in the national interest.

Conclusion

For all the above-stated reasons, the Board should deny (i) DSR's Motion to Dismiss and (ii) DSR's Motion to Strike Respondents' Reply to

DSR's Motion to Dismiss. The Board should not strike NLA's Supplemental Response to DSR's First Set of Interrogatories or the Complex Chemical letter, which are responsive to arguments first raised by DSR in its Motion to Dismiss.

Respectfully submitted,

/s/ Richard H. Streeter

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.
Washington, D.C. 20016
rhstreeter@gmail.com

Dated: March 12, 2021

Certificate of Service

I, Richard H. Streeter, do hereby certify that on this 12th day of March 2021, I served a true copy of the foregoing on Thomas J. Healey, counsel for Delta Southern Railroad at THealey@fletcher-sippel.com.

/s/ Richard H. Streeter

Attachment 1



Post Office Box 6808, 721 S Walnut Pine Bluff, Arkansas 71601 – Phone (870) 536-1971 Fax (870) 536-7718

March 17, 2020

Marc Dixon
South Central Regional Manager
Federal Railroad Administration
Office of Railroad Policy and Development

RE: Southeast Arkansas Economic Development District (SEAEDD) FY2019 INFRA
Project, Request for Change of Scope and Justification

Dear Mr. Dixon:

Please accept this letter as SEAEDD's request for the Federal Railroad Administration (FRA) to approve scope changes to the fiscal year (FY) 19 INFRA Southeast Arkansas and Northeast Louisiana Multimodal Freight Corridor Improvement Project (Project). This letter describes the scope changes and the rationale for those changes.

The Project will improve a multimodal freight corridor, through a mixture of rail rehabilitation, bridge upgrades, and new rail infrastructure improvements, including rail access and capacity at certain ports, located on a 91.3-mile continuous short line railroad corridor known as the McGehee-Tallulah Railroad Corridor (Corridor). Following the same structure as the grant application, the Project is organized into four segments (A-D) from north to south, and based on the owner (also referred to as "project partner") of the rail line within the segment. The segments are: Segment A - North Louisiana and Arkansas Railroad (NLA); Segment B - SEAEDD; Segment C - Lake Providence Port Commission (LPPC); and Segment D - Delta Southern Railroad (DSR). The subsequent sections contain the respective segment's INFRA and non-federal contribution amounts, scope components.

As you know, SEAEDD submitted its FY19 INFRA application before the March 2019 deadline requesting \$25.6 million for the Project. In July 2019 during the FY19 INFRA application review period, the U.S. Department of Transportation's (USDOT) Office of the Secretary (OST) contacted SEAEDD to identify a modified scope for a potential reduced INFRA award. In response, SEAEDD submitted a spreadsheet detailing a modified budget. In September 2019, the USDOT announced FY19 INFRA award selections and selected SEAEDD for the reduced INFRA award amount of \$10,516,259. Since that time, SEAEDD has made scope and Segment funding allocation changes for the following reasons: (1) increases and decreases in cost share amounts and (2) some unintended consequences including, but not limited to, the sources of some of the

Counties: Arkansas * Ashley * Bradley * Chicot * Cleveland * Desha * Drew * Grant * Jefferson * Lincoln

Equal Opportunity Employer

non-federal contributions had looming expenditure deadline or project location restrictions. In February 2020, SEAEDD submitted an updated budget spreadsheet to FRA detailing these revisions.

The modified scope described in this letter still includes rail rehabilitation, bridge upgrades, and improved rail access and capacity at certain ports, except fewer port-related rail improvements would be completed. Furthermore, the following Project benefits to rural communities would still be realized with the modified scope:

- Enhanced railroad transportation operating capacity, efficiency, and safety
- Improved rail access and capacity at the Port of Lake Providence and the Madison Parish Port
- Enhanced economic development through additional rail business opportunity throughout the Corridor. As mentioned in the grant application, existing tenants and port representatives have indicated that the multimodal infrastructure upgrades would attract new business, and this can still happen with the modified scope.

The letter is structured into two sections:

- Section 1: Describes changes to the overall total Project costs from SEAEDD's grant application to February 2020.
- Section 2: Organized by Project Segment, this section summarizes the Project's scope changes from the July 2019 spreadsheet (the version that SEAEDD submitted to OST) and February 2020 spreadsheet.

Section 1

Table 1 shows the changes to the Project's total estimated cost in relation to the INFRA and non-Federal cost share amounts. The modified scope that OST based the FY19 INFRA award selection on primarily focuses on rehabilitating existing infrastructure.

Table 1 also summarizes the overall estimated total Project cost changes from the grant application, the budget in the July 2019 spreadsheet, and the budget in the February 2020 spreadsheet. The Project's estimated total cost decreased from approximately \$45 million with the full scope to \$21.37 million for the modified scope for which SEAEDD is requesting FRA's approval.

Table 1. Changes to Estimated Total Project Cost, March 2019 – February 2020				
Data Source		INFRA Cost Share/ (% share)	Non-Federal Cost Share/(% share)	TOTAL
SEAEDD INFRA Grant Application, March 2019		\$25,689,421 (57%)	\$19,315,000 (43%)	\$45,004,421
July 2019 Revised Scope Spreadsheet		\$10,516,259 (38%)	\$17,210,340 (62%)	\$27,726,599

February 2020 Revised Scope Spreadsheet	\$10,516,259 (49%)	\$10,861,267 (51%)	\$21,377,526
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Section 2

This section summarizes the Project's scope changes from the July 2019 budget spreadsheet (the version that SEAEDD submitted to OST) and February 2020 budget spreadsheet. *(NOTE: The budget tables in each section contain a component called 'project development'. This includes activities such as environmental review, engineering design activities, and project and grant administration activities.)*

Segment A (NLA)

NLA made some scope changes and clarifications, as well as funding changes for Segment A. The July 2019 Segment A budget included no non-Federal funds and the non-federal cost share is \$0. In the February 2020 Segment A budget, NLA added a total of \$225,000 in non-federal cost share column as the funds were inadvertently removed or omitted. The NLA \$225,000 cost share contributes to costs for rehabilitation to rail track on the main line and existing sidings, and upgrades to bridge to make them sufficient to allow 286K lb. rail cars.

With regard to the changes to the bridge upgrades component, the application included upgrades to three bridges, but the July 2019 budget included \$0 for bridge upgrades and the application mentioned that three bridges will be upgraded. However, as part of the February 2020 budget, NLA will only upgrade two bridges in Segment A. NLA will contribute funds for components in Segments A and B and the costs for this component were combined in SEAEDD's grant application. In other words, one of the three bridges was for Segment B.

The July 2019 budget included \$1,055,561 for the Union Pacific (UP) Interchange because, during that time, LPPC was trying to secure funds from the Louisiana Department of Transportation and Development's (LADOTD) Port Priority Program¹ (PPP) to augment the Segment A budget. All of Segment A is located in Arkansas, however, and LPPC subsequently learned that PPP funds cannot be used on projects outside of Louisiana. As a result, SEAEDD and LPPC agreed to remove the UP Interchange, which is located in Arkansas, from the Project's scope.

Lastly, the July 2019 budget had an error and allocated funds to an 'Industrial Sidings' component, which seemed to indicate that part of the scope included construction of new rail sidings. Those funds, however, are for the rehabilitation of existing sidings at Lake Village and Macon Lake, AR. The changes are shown in Table 2.

Table 2. Segment A (NLA) 24.1 Miles, 26% of Corridor			
Project Component	July 2019		February 2020

¹ Per the LADOTD's website, the PPP requires a cost participation from the ports of 10% based on construction cost of the project.

	INFRA Cost Share	Non-Federal Cost Share	INFRA Cost Share	Non-Federal Cost Share
Rail Infrastructure Rehabilitation (Class II)	\$3,365,203	\$0	\$3,299,316	\$70,800
Bridge Upgrades (286,000 lb.) – 2 bridges	\$0	\$0	\$0	\$75,000
UP Interchange	\$1,055,561	\$0	\$0	\$0
Industrial Sidings Rehabilitation of existing sidings at Lake Village and Macon Lake (<i>this was incorrectly listed as 'Industrial Sidings' in the February 2020 spreadsheet</i>)	\$0	\$0	\$0	\$73,200
Subtotal	\$4,420,764	\$0	\$3,299,316	\$219,000
Project Development	\$176,831	\$0	\$131,973	\$6,000
Total	\$4,597,594	\$0	\$3,431,289	\$225,000

Segment B (SEAEDD)

For Segment B, SEAEDD made one scope change and one funding change. In the July 2019 Segment B budget, SEAEDD committed \$150,000 in Delta Regional Authority (DRA) grant funding to the INFRA project. In 2017, DRA awarded the grant, which was intended for a “shovel-ready project”, to SEAEDD for a different project that didn’t pan out; but, in 2018, DRA allowed SEAEDD to request reassigning the grant to the rail infrastructure improvements, which included the grade crossing upgrades in Segment B. As of June 2019, SEAEDD still had the DRA grant but, unfortunately, DRA rescinded the grant funds sometime between July 2019 and September 2019 (DRA had new leadership and SEAEDD has come to the (unconfirmed) conclusion that DRA may have decided the rail infrastructure improvements project wasn’t “shovel ready” – DRA didn’t send any formal correspondence). Therefore, in the February 2020 budget, SEAEDD defunded the At-Grade Highway Rail Crossing Upgrades component. Furthermore, NLA has completed the grade crossing upgrades and SEAEDD removed that component from the Project scope.

The July 2019 budget included \$0 for bridge upgrades but SEAEDD added \$75,000 in the February 2020 budget to account for NLA’s contribution for the upgrade of two bridges. As previously explained in the Segment A section, SEAEDD’s grant application mentioned upgrading three bridges in Segment A, and, although not explicitly stated, one of those was in Segment B.

In the February 2020 budget, SEAEDD and NLA reallocated the bridge upgrade components to their respective segments (i.e., reassigned one from Segment A) and added one new bridge to the scope.

Table 3. Segment B (SEAEDD) 21.8 Miles, 24% of Corridor				
Project Component	July 2019		February 2020	
	INFRA Cost Share	Non-Federal Cost Share	INFRA Cost Share	Non-Federal Cost Share
Rail Infrastructure Rehabilitation (Class II)	\$1,747,427	\$0	\$1,747,427	\$0
Bridge Upgrades (286,000 lb.) – 2 bridges*	\$0	\$0	\$0	\$75,000
At Grade Highway Rail Crossing Upgrades	\$0	144,230	\$0	\$0
Subtotal	\$1,747,427	\$144,230	\$1,747,427	\$75,000
Project Development	\$69,897	\$5,769	\$69,897	\$0
Total	\$1,817,324	\$149,999	\$1,817,324	\$75,000

*= Bridge upgrades will be paid for by NLA

Segment C (LPPC)

For Segment C, LPPC made no scope changes but did make some funding changes. In the July 2019 budget, LPPC showed project development costs totaling \$323,367 which SEAEDD and LPPC later determined is not sufficient to cover those costs. Therefore, LPPC adjusted the non-federal costs in the February 2020 budget spreadsheet to account for increased forecasted project development costs by adding \$1,061,673, and to incorporate the 10% match required under the PPP Program to LPPC's PPP grant. The changes are shown in Table 4.

Table 4. Segment C (LPPC) 16.2 Miles, 18% of Corridor				
Project Component	July 2019		February 2020	
	INFRA Cost Share	Non-Federal Cost Share	INFRA Cost Share	Non-Federal Cost Share
Rail Infrastructure Rehabilitation (Class II)	\$0	\$2,564,784	\$0	\$2,564,784
Miscellaneous (Anchors)	\$0	\$51,030	\$0	\$51,030
NLA-DSR Interchange	\$0	\$2,160,000	\$0	\$2,589,826
Industrial Leads	\$0	\$2,422,960	\$0	\$2,422,960

Port of Lake Providence Lead/Tracks	\$0	\$885,400	\$0	\$885,400
Subtotal	\$0	\$8,084,174	\$0	\$8,514,000
Project Development	\$0	\$323,367	1,166,306	\$0
Total	\$0	\$8,407,541	\$1,166,306	\$8,514,000

Segment D (DSR)

Segment D interfaces directly with the Madison Parish Port Commission (MPPC) via existing track from the DSR mainline; thus, MPPC is a key partner and decisionmaker in this segment. MPPC made several scope and funding changes that are summarized in the bullets below. Most of the scope changes are the result of the reduced FY19 INFRA award – see Table 5.

SEAEDD's FY19 INFRA application stated that MPPC would provide \$10.48 million in PPP funds. MPPC, however, hadn't submitted a PPP application as it was waiting to see if SEAEDD would be selected for an INFRA award, and, if so, the amount of the award². For SEAEDD's discussion with OST in July 2019, MPPC reduced its speculative PPP contribution to approx. \$8.65 million.

After USDOT announced FY19 INFRA award selections, MPPC reduced its budget and scope, in response to the reduced INFRA award, and submitted a PPP application for \$2.047 million to LA DOTD in December 2019. In February 2020, LA DOTD notified MPPC that it was selected for a \$2.047 million PPP grant, which MPPC will apply to the 'doubling the lead' component, as shown in Table 5. MPPC removed the track to the riverbank and lead extension components due to lack of PPP funds and other private funds.

The following is a summary of scope and funding changes:

- Changes to the 'track to the riverbank' and 'lead extension back to the main line' components: MPPC deemed these components more appropriate for the next phase of improvements and removed them from the Project because MPPC didn't include them in its PPP application. With the reduced INFRA award, MPPC had to prioritize subprojects and identified the 'doubling the lead track' as the top priority because of an expected increase in rail traffic in the near future from a new tenant (that is also expected to be the port's second largest tenant in terms of rail traffic); doubling the lead track will help reduce congestion entering and leaving the port. MPPC would like to complete these components in the future and is planning to apply for other funding programs, such as USDA Rural Development, DRA, and/or U.S. Economic Development Administration (EDA). (As an

² If SEAEDD received the \$25.6 million INFRA award that it requested in its application, MPPC would've tried to obtain the non-federal cost share from multiple sources, including submitting an application to LA DOTD for PPP funds (LA DOTD limits an annual award to \$5 million to each entity selected) and going through a process to get state funds from the Louisiana Bond Commission, for example.

aside, Complex Chemical is the port's largest tenant in terms of rail traffic and is currently building a gas pipeline that will trigger the need for the 'track to the riverbank' and 'lead extension back to the main line' components in the future.)

- Double tracking the lead track component: After MPPC received notification from LADOTD that it was selected for a PPP grant, it reprogrammed the budget for this component. It applied the PPP grant to the non-federal cost share and the amount in the INFRA cost share column is the 10% match for the PPP grant.
- River transload dock component: MPPC removed this component because the prospective transload facility investor backed out, which resulted in less of a need for the dock. Furthermore, business needs have changed. Instead of needing a transload dock, MPPC is working with a container on barge tenant and is currently identifying the necessary infrastructure improvements.
- Bridge upgrades: SEAEDD's application included upgrading four bridges. Before July 2019, DSR completed the bridge upgrades and removed them from the scope.
- Project development component: The July 2019 budget spreadsheet showed project development costs totaling \$490,544 which SEAEDD, DSR, and MPPC later determined is not sufficient to cover those costs. Therefore, in the February 2020 budget, DSR and MPPC increased total cost to \$666,076 to account for increased forecasted project development costs and to incorporate the match from the MPPC's PPP grant.

Project Component	July 2019		February 2020	
	INFRA Cost Share	Non-Federal Cost Share	INFRA Cost Share	Non-Federal Cost Share
Rail Infrastructure Rehabilitation (Class II)*	\$3,943,597	\$0	\$3,207,789	\$0
Bridge Upgrades (286,000 lb.)**	\$0	\$0	\$0	\$200,000
Track to Riverbank	\$0	\$1,395,000	\$0	\$0
Lead Extension Back to the Main Line	\$0	\$2,295,000	\$0	\$0
Double Tracking the Lead Track	\$0	\$2,880,000	\$227,474	\$2,047,267
River Transload Dock	\$0	\$1,750,000	\$0	\$0
Subtotal	\$3,943,597	\$8,320,000	\$3,435,365	\$2,247,267
Project Development	\$157,744	\$332,800	\$666,076	\$0
Minus Bridge Upgrades**	\$0	\$0	\$0	-\$200,00
Total	\$4,101,341	\$8,652,800	\$4,101,339	\$2,047,267

**= Only 21 miles of work remain as DSR has completed 7 miles of rehab. Work.*

***= DSR has completed the bridge repairs. These costs will not be included in the FRA-SEAEDD grant agreement.*

If you have any questions or need additional information, please contact me at your earliest convenience.

Respectfully,



Patrecia Hargrove
Executive Director

Attachment 2



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

June 1, 2020

Ms. Patrecia Hargrove
Executive Director
Southeast Arkansas Economic Development District, Inc.
721 South Walnut Street
Post Office Box 6806
Pine Bluff, Arkansas 71611

RE: Scope and Budget Modification Request for FY 2019 INFRA Project

Dear Ms. Hargrove:

Thank you for your March 17, 2020, letter to the Federal Railroad Administration (FRA)—in which you outlined the Southeast Arkansas Economic Development District, Inc.'s (SEAEDD) request to modify the scope and budget of the Southeast Arkansas and Northeast Louisiana Multimodal Freight Corridor Improvement Project (the Project), selected for award under the Fiscal Year (FY) 2019 Infrastructure for Rebuilding America (INFRA) Program.

FRA has coordinated with the U.S. Department of Transportation's (USDOT) Office of the Secretary (OST), the agency responsible for the INFRA Program, in reviewing SEAEDD's request to modify the Project's scope and budget in response to OST selecting the Project for an award amount that is less than what SEAEDD requested. FRA and OST have determined that SEAEDD's request is sufficient and will therefore advance the Project, as revised. FRA will reach out to you to begin developing the Statement of Work and other documents for the FRA-SEAEDD grant agreement.

Thank you for your cooperation and patience. If you have any questions or concerns, please contact me at (202) 493-0614 or marc.dixon@dot.gov.

Sincerely,

MARC R. DIXON Digitally signed by MARC R.
DIXON
Date: 2020.06.01 12:57:44 -04'00'

Marc Dixon
Project Manager – South Central Region

Attachment 3

From: John Marino <John.Marino@continentalrail.us>
Date: Friday, August 21, 2020 at 11:24 AM
To: Patrecia Hargrove <phargrove@southeastarkansas.org>
Subject: RE: INFRA Grant Award

Mrs. Patrecia Hargrove,

The Delta Southern will commit to completing the grant work outlined in our original estimates as detailed below.

The following is the construction estimate that we proposed:

MP	Priority - Miles				
	40% Ties per mile	3,500 Tons Ballast per mile	Tamping	Labor for Ballast/ Miscellaneous	Total
500	\$120,680.00	108,500	6,000	15,180	\$250,360.00
499	\$120,680.00	108,500	6,000	15,180	\$250,360.00
498	\$120,680.00	108,500	6,000	15,180	\$250,360.00
497	\$120,680.00	108,500	6,000	15,180	\$250,360.00
496	\$120,680.00	108,500	6,000	15,180	\$250,360.00
495	\$120,680.00	108,500	6,000	15,180	\$250,360.00
494	\$120,680.00	108,500	6,000	15,179	\$250,359.00
493	\$120,680.00	108,500	6,000	15,179	\$250,359.00
492	\$120,680.00	108,500	6,000	15,179	\$250,359.00
491	\$120,680.00	108,500	6,000	15,179	\$250,359.00
	\$ 1,206,800	\$1,085,000	\$ 60,000	\$ 151,796	\$ 2,503,596

Thank you for your email and we look forward to working with you to complete this work.