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August 8, 2023

Ms. Cynthia T. Brown
Chief, Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: STB FD 36447, *Lake Providence Port Commission—Feeder Line
Application-Line of Delta Southern R.R. Located in East Carroll
And Madison Parishes, LA.*

Dear Ms. Brown:

This letter and the attachments hereto, which were received shortly after I filed my letter of August 7, reflect the results of a track inspection that was performed yesterday afternoon by Noah B. Robbins. The track is the contained in the 1.25 mile segment of track that is owned by Delta Southern Railroad ("DSRR"), and which is the subject of the Trackage Rights Agreement that allows North Louisiana & Arkansas ("NLA") to reach the lead track that is owned by the Lake Providence Port Commission. In order to avoid the further delay of this proceeding, please treat this information as a supplement to LPPC's filing on August 7, 2023.

At page 2 of the letter that John M. Scheib filed on July 28, 2023, the statement is made that DSRR "has made substantial investments in segments of the railroad." According to the letter, "[i]ndeed, that rehabilitation has continued in July of 2023 with the installation of 700 rail ties between MP 471.0 and MP 472.25, which was completed on July 12, 2023."

As the attached Inspection Report reflects, Mr. Robbins discovered a total of seventeen defects that are detailed in the attachment to his Verified Statement. Because these defects include the same defects that were identified in his earlier reports, it is plainly evident that DSRR failed to thoroughly rehabilitate this segment of its track even though the identical defects have been repeatedly brought to its attention over the past two years.

Although DSRR has not actively operated over this segment of its track in the past six years, the trackage rights agreement that DSRR originally entered into with LPPC in 2011, requires DSRR to maintain the track at FRA Class 1 standards. Moreover, consistent with FRA's Track Safety Standards at 49 C.F.R. Part 213, DSRR is required to conduct monthly inspections and take remedial action within 30 days to cure the defects. Even if it could somehow be forgiven its past failures, there is no avoiding the conclusion that when it finally took action to address certain defects that caused the recent derailments of loaded cars on this small segment of DSRR's mainline, it did not thoroughly mediate the defects that had been brought to its attention by NLA.

As Mr. Robbins notes in his Supplemental Verified Statement, NLA and LPPC are taking steps to address all defects on LPPC's tracks. Those defects would have been addressed much earlier had DSRR's prior owners made any effort to maintain the entire Line. Because NLA's and LPPC's efforts alone will not protect shippers and receivers that are currently located within the Lake Providence Port, it must be able to rely on DSRR to maintain the 1.25-mile segment consistent with the terms of the trackage rights agreement that DSRR entered into years ago.

Given DSRR's claims that it examined LPPC's expanded Feeder Line Application before it filed its motion to reject, it should have noticed that both the trackage rights agreement and Mr. Robbins' prior Inspection Reports are included in LPPC's expanded application filed January 4, 2023. In any event, NLA already has the contractual right to operate over DSRR's track to reach LPPC lead track. DSRR has no right to refuse to comply with the literal wording of the trackage rights agreement that the Board accepted in 2012.

Respectfully submitted,

/s/ Richard H. Streeter

Richard H. Streeter
Counsel to LPPC

Cc: JohnM. Scheib

**Before the
SURFACE TRANSPORTATION BOARD**

STB Docket FD No. 36447

**Lake Providence Port Commission—Feeder Line Application--LINE OF
DELTA SOUTHERN RAILROAD LOCATED IN EAST CARROLL AND
MADISON PARISHES, LOUISIANA**

SUPPLEMENTAL VERIFIED STATEMENT OF NOAH B. ROBBINS

1. My name is Noah B. Robbins. I am the General Manager of the North Louisiana & Arkansas Railroad (“NLA”). My business address is 500 Crooked Bayou Drive, McGehee, Arkansas 71654. I am a qualified locomotive engineer and conductor and am also a qualified track inspector. I am authorized to make this Supplemental Verified Statement and know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information, and belief.

2. I have previously prepared Track Inspection Reports that have identified multiple defects on DSRR’s track that NLA must cross to be able to reach LPPC’s private lead track. On August 7, 2023, I once again inspected the track between milepost 471.0 and milepost 472.25. As the record reflects, this short segment of track is the subject matter of a trackage rights agreement between DSRR and LPPC. By decision served October 5, 2012, the Board authorized NLA’s acquisition of the trackage rights from LPPC. As has been repeatedly noted, the trackage rights agreement requires DSRR to maintain

this segment of its track at FRA Class 1 status. Because the trackage rights agreement contractually requires the track to be maintained at FRA Class 1 status, all of the FRA Track Safety Standards at 49 C.F.R Part 213 apply to this segment of DSRR's track. As a result, DSRR cannot dodge the FRA's standards by acting as if the track is "excepted" track. I will note that DSRR's new owners as well as its prior owners were made aware of my prior inspection report as early as April 4, 2022, when it was included in LPPC's Verified Rebuttal filed with the Board on that date.

3. My most recent inspection identified at least 17 defects, which are set forth in detail in my August 7, 2023, Inspection Report, which is attached hereto. This report once again identifies the specific code provisions that should have been addressed by DSRR since 2011. If DSRR had thoroughly rehabilitated the track in early July in the course of installing seven hundred ties, these defects should have been remediated at the time that the new ties were inserted. That was not done.

4. In addition, the Board should note that my prior Track Inspection Report, dated March 29, 2022, was included at pages 631-634, in LPPC's expanded Feeder Application, dated January 4, 2023. Because the defects that were identified in that report mirror the defects that are in Inspection Report, dated August 7, 2023, it is plainly evident that DSRR's new owners have never addressed the defects, even though they should have been addressed within 30 days of the date that my prior inspection report was provided to DSRR and its newest attorneys.

5. Because these defects will force NLA to continue to operate at walking speed to ensure the safety of its crew and the cars that it is moving over the track, DSRR's failure to cure the defects a month ago will continue to adversely impact NLA's and LPPC's ongoing effort to restore the LPPC lead track so that it can provide reliable service for ACME. I will note that by the end of next week approximately 700 new cross ties will have been installed on LPPC's track by LPPC and NLA in the past several months. Unfortunately, due to the deteriorated condition of the tracks that DSRR failed to address over the past 20+ years, as well as DSRR's refusal to commit to the rehabilitation of the 20-mile segment of its Line between milepost 417 and 491, it was necessary to focus on the north end of the Line.

Further Sayeth the Affiant Not:

Inspection of DSRR MP 471.0 to MP472.25 on August 7th, 2023

MP 471.05 Insufficient Bolts at Joint Bar Defect Code 0121D2

MP 471.1 Insufficient Bolts at Joint Bar Defect Code 0121D2

MP 471.1 Insufficient Bolts at Joint Bar Defect Code 0121D2

MP 471.15 Tie Cluster Defect Code 0109B2

MP 471.18 Tie Cluster Defect Code 0109B2

MP 471.2 Joint Tie Defect Defect Code 0109B3

MP 471.21 Joint Tie Defect Defect Code 0109B3

MP 471.25 Joint Tie Defect Defect Code 0109B3

MP 471.3 Vegetation Defect Code 0037C1

MP 471.42 Insufficient Bolts at Joint Defect Code 0121D2

MP 471.55 Crosslevel exceeds allowable in Class 1 Defect Code 0063A3

MP 471.8 Broken Rail Inside Joint Bar Defect Code 0113D12

MP 471.85 Broken Rail Inside Joint Bar Defect Code 0113D12

MP 471.86 Insufficient Bolts at Joint Bar Defect Code 0121D2

MP 472.12 Insufficient Bolts at Joint Bar Defect Code 0121D2

MP 472.25 (Port Lead Switch) Missing 2 Cotter Pins Defect Code 0133A7

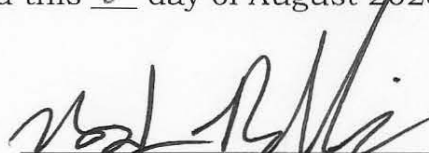
MP 472.25 (Port Lead Switch) Frog missing Bolt Defect Code 0133A12

Date Completed
8-7-23

Signature

A handwritten signature in black ink, appearing to be "Noel R. Mc...", written over a horizontal line.

I, Noah B. Robbins, declare under penalty of perjury that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed this 8 day of August 2023.



Noah B. Robbins

Certificate of Service

I, Richard H. Streeter, do here by certify that a true copy of the foregoing documents was served this 8th day of August 2023 on John M. Scheib at Scheib@gentrylocke.com.

/s/ Richard H. Streeter