

**John M. Scheib**

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ENTERED
Office of Proceedings
May 28, 2025
Part of
Public Record

May 28, 2025

VIA ELECTRONIC FILING

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:

Respondent, Delta Southern Railroad Inc. (“DSRR”), yesterday filed to request expedited consideration and dismissal, with prejudice, of the Lake Providence Port Commission’s (“LPPC”) Feeder Line Application for the Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, Louisiana. DSRR requests to substitute the attached revised pleading, which includes the state court order that DSRR previously submitted to the Board on June 27, 2024 as an attachment to its motion to dismiss. Given the short passage of time, no parties will be prejudiced by this substitution.

Thank you for your consideration.

/s/ *John M. Scheib*

Attorney for:
Delta Southern Railroad, Inc.

Attachment
cc: Parties of Record

309605

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
May 28, 2025
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FINANCE DOCKET NO. 36447

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

**DELTA SOUTHERN RAILROAD INC.’S RENEWED MOTION TO DISMISS
EXPEDITED CONSIDERATION REQUESTED**

John M. Scheib
Noah S. Sullivan
Gentry Locke
919 E Main Street Suite 1130
Richmond, VA 23219
757-916-3511

Attorneys for:
Delta Southern Railroad, Inc.

Dated: 5/28/25

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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FINANCE DOCKET NO. 36447

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

**DELTA SOUTHERN RAILROAD INC.’S RENEWED MOTION TO DISMISS
EXPEDITED CONSIDERATION REQUESTED**

Respondent, Delta Southern Railroad Inc. (“DSRR”), requests that the Board remove this proceeding from abeyance and grant the pending motion to dismiss, with prejudice, Lake Providence Port Commission’s (“LPPC”) Feeder Line Application for the Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, Louisiana. DSRR requests that the Board do so expeditiously as this proceeding has been pending for more than four years and the state courts have issued a final order that LPPC lacks authority under its enable statute to pursue the Application and has ordered LPPC to “discontinue pursuit of its feeder line application that exist outside the Parish of East Carroll.” The order of the Trial Court is attached as Exhibit 1.

LPPC filed its Feeder Line Application with the Surface Transportation Board (“STB”) on November 12, 2020. On June 27, 2024, DSRR filed a Motion to Dismiss and for Attorney’s Fees. (“Motion to Dismiss”). After subsequent filings and litigation in Louisiana state court, the STB decided to hold proceedings in FD 36447 in abeyance pending “resolution of these state law

issues.” *See Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. LPPC* ENTERED
in E. Carroll & Madison Parishes, La. (Aug. 1, 2024 Decision), FD 36447, slip op. at 3 (STB Office of Proceedings
 May 28, 2025 Part of
 served Aug. 2, 2024). Those issues are now resolved with final action by the Supreme Court of Louisiana.
 Public Record

On May 27, 2025, LPPC filed, and the Supreme Court of Louisiana granted, its Motion to Dismiss Original Application. *See* Order, attached as Exhibit 2. Thus, the decision of the Louisiana Court of Appeals for the Second Circuit, about which DSRR provided notice to the Board on March 6, 2025, is final. That decision affirmed the Sixth Judicial District Court of the Parish of East Carroll, Louisiana (Trial Court No. 23,740), which held (1) LPPC lacks statutory authority to acquire property outside East Carroll Parish and is acting “*ultra vires*” and (2) issued of a writ ordering LPPC to discontinue its pursuit of ownership or control of property outside of East Carroll Parish in its feeder line application.

WHEREFORE, DSRR respectfully requests that the Board remove the proceeding from abeyance and grant the motion to dismiss with prejudice expeditiously LPPC’s Feeder Line Application. Attorneys’ fees issue need not delay dismissal of this action and can be addressed separately as is done in courts. A draft order is attached as Exhibit 3.

/s/ *John M. Scheib*

John M. Scheib
 Gentry Locke Attorneys
 919 E Main St Ste 1130 Richmond, VA 23219
 757-916-3511

Attorney for:
 Delta Southern Railroad, Inc.

Dated: May 28, 2025

309605

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email on
counsel for all parties of record.

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/s/ *John M. Scheib*

John M. Scheib

Dated: May 28, 2025

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EXHIBIT 1- TRAIL COURT ORDER

ENTERED
Office of Proceedings
May 28, 2025
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DELTA SOUTHERN RAILROAD, INC.

STATE OF LOUISIANA

VERSUS

PARISH OF EAST CARROLL

LAKE PROVIDENCE PORT
COMMISSION, WYLY GILFOIL,
MARK BUNTYN, ROGER CLEMENT,
JERRY KING, FRANCIS LENSING,
KARVAN POWELL, AND
JAMES THOM, IV.

SIXTH JUDICIAL DISTRICT 309605

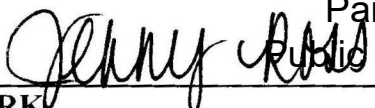
CIVIL DOCKET NO. 23746 ENTERED
Office of Proceedings

DIVISION B May 28, 2025

Part of
Public Record

FILED: JUN 24 2024

DEPUTY

BY: 
CLERK

JUDGMENT AND ORDER

The above captioned matter came on for hearing on May 23, 2024, with trial being conducted in the Madison Parish Courthouse by agreement of and for the convenience of the Court and all parties. **CONSIDERING** the Petition for Writs of Quo Warranto and/or Mandamus filed by **DELTA SOUTHERN RAILROAD, INC.** as well as the Answer filed by **LAKE PROVIDENCE PORT COMMISSION, WYLY GILFOIL, MARK BUNTYN, ROGER CLEMENT, JERRY KING, FRANCIS LENSING, KARVAN POWELL, AND JAMES THOM, IV.**, the pre-hearing briefs, the evidence received, the arguments of counsel in the above captioned matter, and the Constitution and law of the State of Louisiana, and for the reasons announced in open court during the trial on May 23, 2024,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff, **DELTA SOUTHERN RAILROAD, INC.**'s Petition for Mandamus is **DENIED**.

IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff, **DELTA SOUTHERN RAILROAD, INC.**'s Petition for Writ of Quo Warranto is **GRANTED** and that the writ shall issue ordering that the **LAKE PROVIDENCE PORT COMMISSION** cease its *ultra vires* actions and discontinue pursuit of its feeder line application that exist outside the Parish of East Carroll.

IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED that all costs of these proceedings are to be borne by Defendants to the extent allowable by law.

JUDGMENT RENDERED IN OPEN COURT in Tallulah, Madison Parish, Louisiana
on May 23, 2024, **AND SIGNED IN CHAMBERS** at Ruston, Louisiana, this
19 day of June, 2024. 309605

ENTERED
Office of Proceedings
May 28, 2025
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Public Record

James H. Boddie, Jr.
JAMES H. BODDIE, JR.
JUDGE AD HOC

309605

EXHIBIT 2- ORDER OF THE LOUISIANA SUPREME COURT

ENTERED
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Supreme Court
STATE OF LOUISIANA
New Orleans

309605

ENTERED
Office of Proceedings
May 28, 2025

VERONICA O. KOPANES
CLERK OF COURT
Part of
Public Record
400 Royal St., Suite 4200
NEW ORLEANS, LA 70130-8102
TELEPHONE (504) 310-2300
HOME PAGE <http://www.lasc.org>

CHIEF JUSTICE JOHN L. WEIMER	Sixth District
JUSTICES	
WILLIAM J. CRAIN	First District
JOHN MICHAEL GUIDRY	Second District
CADE R. COLE	Third District
JAY B. MCCALLUM	Fourth District
JEFFERSON HUGHES	Fifth District
PIPER D. GRIFFIN	Seventh District

May 27, 2025

James Edward Paxton
124 Hancock St
St Joseph, LA 71366-

John D. Crigler, Jr.
124 Hancock St
St Joseph, LA 71366-

Re: DELTA SOUTHERN RAILROAD,
INC. VS. LAKE PROVIDENCE PORT
COMMISSION, ET AL.
2025-C-00549

Dear Counsel:

This is to advise that the court took the following action on your Motion To Dismiss filed in the above entitled matter.

CONSIDERING the foregoing Motion to Dismiss Original Application on Behalf of LAKE PROVIDENCE PORT COMMISSION, WYLY GILFOIL, MARK BUNTYN, ROGER CLEMENT, JERRY KING, FRANCIS LENSING, KARVAN POWELL, AND JAMES THOM, IV. ("Applicant"):

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Original Application filed on behalf of Applicant is hereby DISMISSED.

Regards,

309605

Theresa McCarthy
Second Deputy Clerk

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Office of Proceedings
May 28, 2025
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TM: TM

ccs:

All Counsel
Hon. James H. Boddie, Jr.
Hon. Rene Thomas Williams
Hon. Robin Norman Jones
6th Judicial District Court: 23,740 - Div:B
Court of Appeal, Second Circuit: 56,112-CA

309605

EXHIBIT 3 – PROPOSED ORDER

ENTERED
Office of Proceedings
May 28, 2025
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PROPOSED ORDER

ENTERED
Office of Proceedings
May 28, 2025
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SURFACE TRANSPORTATION BOARD DECISION

DECISION

Docket No. FD 36447

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

On November 12, 2020, Lake Providence Port Commission filed its Feeder Line Application, which it later amended. The parties engaged in litigation in state courts in Louisiana regarding the scope of LPPC's authority under state law to pursue the property of Delta Southern Railroad ("DSR") involved in this proceeding.

The Sixth Judicial District Court of the Parish of East Carroll, Louisiana (Trial Court No. 23,740), held (1) LPPC lacks statutory authority to acquire property outside East Carroll Parish and is acting "*ultra vires*" and (2) issued a writ ordering LPPC to discontinue its pursuit of ownership or control of property outside of East Carroll Parish in its feeder line application. Based on this ruling, on June 27, 2024, DSR filed a Motion to Dismiss and for Attorney's Fees. ("Motion to Dismiss"). The Board by decision served August 2, 2024, held this proceeding in abeyance pending the outcome of the state court litigation. On May 27, 2025, DSR notified the Board that the state court action is final after the Louisiana Court of Appeals for the Second Judicial Circuit affirmed the lower court and a petition for certiorari to the Louisiana Supreme Court was withdrawn. DSR renewed its motion to dismiss with prejudice. The state court litigation is now final.

Therefore the Motion to Dismiss with prejudice is granted. The Board will consider DSR's petition for attorney's fees in a separate decision.

It is ordered:

1. DSR's motion to dismiss with prejudice is granted.
2. The Board will consider DSR's petition for attorneys' fees in a separate decision.
3. This decision is effective on its service date.