



GENTRY LOCKE
Attorneys

John M. Scheib

scheib@gentrylocke.com

P: 757.916.3511

F: 540.983.9400

December 18, 2025

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BY EMAIL

Judge Jennifer Soulikias
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Chief Counsel
December 18, 2025
Part of
Public Record

36447

Re: ***Finance Docket No. ~~36647~~, Lake Providence Port Commission – Feeder Line Application – Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, Louisiana***

Dear Judge Soulikias:

Delta Southern Railroad Inc. (“DSRR”) provides documents filed by DSRR related to the discovery disputes that the Surface Transportation Board referred to your honor by its decision of December 12, 2025 (“Decision”). DSRR and Lake Providence Port Commission (“LPPC”) jointly filed for clarification of the Decision because it ordered them to “send a copy of all filings and documents relating to the amended application” to you, which is about 80 filings many of which relate to issues already decided or unrelated to the discovery disputes. In the absence of such clarification, DSRR is providing only those documents that it has filed with the Board prior to the Decision that relate to the pending discovery disputes¹ and relevant prior decisions by the Board and ALJ McCarthy.²

For your convenience, those materials are attached to the email serving you with this filing. Specifically, they are:

- DSRR’s motion to strike or in the alternative compel or for subpoena duces tecum dated November 11, 2025.
- DSRR’s letter dated December 5, 2025, in support of expedited resolution.
- DSRR’s motion dated November 19, 2025, for procedural schedule.
- DSRR’s letter dated December 12, 2025, confirming service of the Board decision on LPPC’s witnesses.

¹ On December 16, 2025, LPPC filed a Motion to Compel despite the fact that its evidentiary filings are complete and none of the circumstances listed in 49 CFR 1114.29 are applicable. DSRR will respond within the 20 days provided by rule for a response to that motion.

² If the Board confirms that it would like the us to provide all the other pleadings, DSRR will supplement.

- The Board's decision rejecting LPPC's argument and finding that LPPC's witness, North Louisiana and Arkansas Railroad, that filed a verified statement was a party, which was decided May 27, 2021.
- Judge McCarthy's decision granting DSRR's motion to compel and rejecting LPPC, NLA, and Southeast Arkansas Economic Development District's effort to avoid discovery, which was decided April 15, 2024.

The two decisions are the two discovery-related decisions issued after the filing of the Amended Application. Each decision was in DSRR's favor and prevented LPPC's attempts to obstruct DSRR from gaining discovery.

Also potentially helpful are the Board's evidentiary rules that are found at 49 CFR 1114. Key elements include:

- Parties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding. 49 CFR 1114(a)(1).
- Inadmissibility is not an appropriate objection if the information sought appears to be reasonably calculated to lead to discovery of admissible evidence. 49 CFR 1114.21(b).
- All discovery procedures may be used by parties without filing a petition and obtaining prior board approval. 49 CFR 1114.21(b).
- Methods of discovery may be used in any sequence. 49 CFR 1114.21(d).
- Depositions may be taken of "any person, including a party." 49 CFR 1114.22(a).³
- "[A]ny party may serve upon any other party written interrogatories." 49 CFR 1114.26(a).
- Requirement to supplement arises only in limited circumstances. 49 CFR 1114.29.

Notably, there is no requirement that discovery occur at any particular time during a proceeding other than before the party seeking discovery has filed its evidence.⁴

DSRR looks forward to working with your honor.

³ DSRR concedes that the rule requires deposition notices to state a location in the city where the deponent is located and will cure by serving new deposition notices. 49 CFR 1114.23(a).

⁴ Compare *Wisc. Power & Light v. Union Pac. R.R. Co.*, STB Finance Docket No. 42051, 2000 STB LEXIS 539 (STB Decided Sept. 19, 2000)(rejecting request for discovery supplementation after the party seeking supplementation had filed its evidence) with *Tongue River R.R. Co., Inc.—Rail Construction and Operation--In Custer, Powder River and Rosebud Counties, Mont.*, STB Finance Docket No. 30186, 2015 STB LEXIS 283 (STB Decided Aug. 18, 2015)(permitting continuing discovery prior to party filing its evidence).

ALJ Jennifer Soulikias

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Respectfully submitted,

/s/ John M. Scheib

John M. Scheib

Attorney for Delta Southern Railroad

JMS/dlj

Attachments provided to Judge Soulikias by Email and not attached to this pleading.

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email on the following:

Mr. Richard H. Streeter
525 Partridge Lane, NW
Washington, DC 20016
rhstreeter@gmail.com

Mr. Michael F. McBride
Van Ness Feldman
2000 Pennsylvania Ave, NW
Suite 6000
Washington, DC 20006
mfm@vnf.com

Noah P. Sullivan
919 East Main Street, Suite 1130
Richmond, VA 23219
Tel: 804-956-2069
nsullivan@gentrylocke.com

Thomas D. Crowley
1501 Duke Street, Suite 200
Alexandria, VA 22314
Tel: 703-836-0100
tc@lepeabody.com

Mr. Glover Alcorn "Russ" Russell, Jr.
Glover Russell, P.A.
The Plaza Building
120 N. Congress Street, Ste. 600
Jackson, MS 39201
Phone: (601) 709-7000
russ@gloverrussell.com

Mr. William L. Mencer
Law Office of William L. Mencer, LLC
P.O. Box 523
Lake Village, AR 71653
Phone: (870) 265-6737
William@mencerlaw.com

Mr. Jacob A. Brister
Brister Law Firm, PLC
318 Morgan Street
P.O. Box 266
Lake Providence, LA 71254
Phone: (318) 559-5800

Mr. Ernesto Andre Silva Cruz
Terral RiverService, Inc.
112B Monument Place
Vicksburg, MS 39180
ernestoc@terralriverservice.com

Christopher B. Arnold
Hope, O'Dwyer, Wilson and Arnold, P.A.
211 Spring Street
Little Rock, AR 72201
Phone: (501) 372-4144
carnold@hope-lawyers.com

/s/ John M. Scheib

John M. Scheib

Dated: December 18, 2025