

RICHARD H. STREETER
ATTORNEY AT LAW
5255 Partridge Lane N.W.
Washington, D.C. 20016
Tele: 202-210-4761
rhstreeter@gmail.com

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

VIA E-FILING

December 18, 2025

Dear Judge Soulikias:

In the December 18, 2025 letter to you from counsel for Delta Southern Railroad, Inc. ("DSR"), reference is made on the top of p. 2 to a decision of the STB, dated May 27, 2021, concerning discovery. Please note that is the same decision that we cited on behalf of Lake Providence Port Commission ("LPPC"), in "Lake Providence Port Commission's Reply to Motion of Delta Southern Railroad, Inc. to Strike and in the Alternative Motion to Compel or for a Subpoena Duces Tecum" (Document No. 310338) (November 24, 2025 Reply)" at p. 4 and n.5. However, in our prior letter to Your Honor, we referred to it as the Decision *served* on June 1, 2021. This was done because the *service date* of STB decisions is the legally effective date of all STB decisions, not the date of the Decision.

In DSR's December 18, 2025 letter to Your Honor, in the top "bullet" on p. 2, DSR again mischaracterizes the STB's Decision served herein on June 1, 2021. The STB did *not* decide that North Louisiana and Arkansas Railroad was to be deemed a party herein *because* one of its officials had submitted a Verified Statement herein. Instead, as we contended at p. 4 and quoted at n.5 of LPPC's November 24, 2025 Reply, the STB deemed NL & A to be a party for discovery purposes *because* NL & A "has participated as a party in this proceeding" by joining with LPPC and other Project participants in seeking relief herein. *Id.* In contrast, *none* of the non-party shipper witnesses "has participated as a party in this proceeding" by joining with LPPC and other Project participants in seeking relief in this proceeding. Therefore, DSR's argument that the STB's decision served herein on June 1, 2021 supports its argument that the non-party shipper witnesses are parties to this proceeding is simply incorrect.

Also, in light of DSR's December 18, 2025 letter and the enclosures therewith, including its November 19, 2025 Motion to Compel (Document No. 310278), it is appropriate for LPPC to submit herewith an additional document to Your Honor, a letter (Document No. 302655) from DSR's then-counsel, dated June 30, 2021, at p. 2, in which he stated on behalf of DSR that "*Nevertheless,*

DSR has elected not to pursue a motion to compel, and deems discovery concluded." (Emphasis added). See Attachment hereto.

Respectfully submitted,

Richard H. Streeter

Michael F. McBride

/s/ Richard H. Streeter

/s/ Michael F. McBride

Richard H. Streeter

Michael F. McBride

Law Office Richard H. Streeter Van Ness Feldman, LLP

5255 Partridge Lane, N.W.

2000 Pennsylvania Ave., N.W.

Washington, D.C. 20016

Suite 6000

Washington, D.C. 20006

Attachment

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

302655

ENTERED
Office of Proceedings
June 30, 2021
Part of
Public Record

THOMAS J. HEALEY

(312) 252-1505
thealey@fletcher-sippel.com

June 30, 2021

Via E-mail

The Honorable Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: **Lake Providence Port Commission – Feeder Line Application – Line of
Delta Southern Railroad Located in East Carroll and Madison Parishes,
Louisiana, FD 36447**

Dear Ms. Brown:

In its most recent status report in this proceeding, Delta Southern Railroad, Inc. (“DSR”) acknowledged the receipt of several hundred pages of responsive discovery materials tendered on June 23 by the “Other Parties” – Lake Providence Port Commission (“LPPC”), North Louisiana & Arkansas Railroad (“NLA”), and Southeast Arkansas Economic Development District, Inc. (“SEAEDD”). Counsel for DSR has now reviewed the tendered materials to determine how best to move forward.

DSR is pleased that the Other Parties have managed to locate so many responsive documents, but it is also disappointed with the Other Parties’ unilateral limitation of its obligations to comply with DSR’s discovery requests. For example, DSR had requested, as part of its discovery, that the Other Parties supply a “privilege log” identifying all otherwise-responsive documents withheld from production on the basis of privilege. Counsel for the Other Parties has advised that no such documents had been identified, qualifying his response by adding that “nothing was ever withheld from production that was discovered by NLA, LPPC and SEAEDD when they dug through their files.” When DSR’s counsel, in response, clarified that the privilege log extended to documents exclusively in the possession of legal counsel (if not his clients), the Other Parties’ counsel countered that, “I have fully responded regarding the absence of any document being withheld for attorney-client or work product reasons and will not further

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Ms. Cynthia T. Brown

June 30, 2021

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respond.” DSR takes this as Other Counsel’s unilateral decision not to comply fully with DSR’s privilege log request, and DSR is disappointed by it.

While it is conceivable – improbable, but conceivable – that not a single attorney-client communication exists touching on any of the myriad subjects covered in the discovery requests, counsel’s acknowledgement that the obligation to respond to discovery included the obligation for counsel to search his own records for responsive materials could have eliminated any concern about the claim of the absence of privileged communications.

Nevertheless, DSR has elected not to pursue a motion to compel, and deems discovery concluded. Instead DSR will focus its resources on formally responding to LPPC’s ill-conceived feeder line application, if such a response proves to be necessary in light of the still-pending issues of Board-sponsored mediation and DSR’s request for dismissal of the underlying feeder line application.

Very truly yours,

Thomas J. Healey

Thomas J. Healey

TJH/dg

cc: All parties of record

Certificate of Service

I, Richard H. Streeter, do hereby certify that, on December 16, 2025, true copies of the foregoing with attachments were served on the at the Surface Transportation Board and on the following Parties of Record, via email:

Delta Southern Railroad, Inc. (the owning railroad)
c/o John M. Scheib scheib@gentrylocke.com. and
Noah P. Sullivan NSullivan@gentrylocke.com.

ALJ Jenifer Soulikias alf.soulikias.inbox@stb.gov

Timothy Crowley at tim@lepeabody.com
Thomas D. Crowley at tc@lepeabody.com

In addition, true copies were served, consistent with 49 C.F.R. § 1152.1(a) on the following:

- (1) All rail patrons who originated and/or received traffic on the line during The 12-month period preceding the month in which the amended application was filed:

mark.marionneaux@keanmiller.com
bryant.bremer@keanmiller.com

Counsel for Helena Chemical/South Delta Fertilizer

Dan Militaru
Rail Vehicle Services
dan.militaru@railcarco.com

Jerry J. Melton
Complex Chemical Co.
jmelton@complexchemical.com

Neil Martin
Terral River Service, Inc.
nmartin@terralriverservice.com

- (2) The designated State agency in the State where the property is located:

Louisiana Department of Transportation and Development

andrew.barry@la.gov
sanettria.pleasant2@la.gov

- (3) County governments where the line is located:

East Carroll Parish Police Jury
Kendall Thompson, President
ecpj400@att.net

Madison Parish Police Jury
Jane Sanders, President
msmith_mppj@bellsouth.net

William L. Mencer
william@mencerlaw.com

Glover Alcorn "Russ" Russell, Jr.
russ@gloverrussell.com

Jacob A. Brister
jacob@bristerlaw.com

Ernesto Andre Silva Cruz
ernestoc@terralriverservice.com

Chris Arnold
carnold@hope-lawyers.com

Richard H. Streeter

/s/ Richard H. Streeter

Counsel to the Lake Providence
Port Commission