

SERVICE DATE—DECEMBER 31, 2025

SURFACE TRANSPORTATION BOARD

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.

Decided: December 31, 2025

This discovery matter is before the undersigned pursuant to a ruling by the Surface Transportation Board.¹ See Decision (Dec. 12, 2025).

This proceeding involves efforts by the Lake Providence Port Commission (LPPC), a noncarrier political subdivision of the State of Louisiana, to acquire the portion of the McGehee-Tallulah rail corridor owned by Delta Southern Railroad, Inc. (DSR), a Class III rail carrier, through a feeder line application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151. By decision served September 25, 2025, the Board denied two motions to dismiss the proceeding, lifted a previously imposed abeyance, and directed the parties to submit (jointly if possible) a proposed procedural schedule that took into account a reasonable period of time for DSR to complete discovery. Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La. (September 2025 Decision), FD 36447 (STB served Sept. 25, 2025). The parties submitted competing proposals for a procedural schedule on November 19, 2025. See Materials Due to Be Submitted During the Fed. Gov’t Shutdown, EP 751 (STB served Nov. 13, 2025) (setting deadlines of November 20, 2025, due to the lapse in the Board’s appropriations).

Also on November 19, 2025, DSR filed a motion to strike four verified statements signed by shipper witnesses in support of LPPC’s amended application or, in the alternative, to either compel discovery from those witnesses (if they are parties to the proceeding) or issue subpoenas duces tecum as to them (if they are not). (DSR Mot. to Strike 1-2, Nov. 19, 2025.) According to its motion, on October 13, 2025, DSR served discovery on four of LPPC’s witnesses who

¹ By letter dated December 19, 2025, LPPC complained about the burden and expense because the Board required the parties to serve copies of all prior filings upon this ALJ, (LPPC Letter, Dec. 19, 2025), although only electronically. The Board’s prior referrals to an ALJ required service of all filings electronically and by mail. See, e.g., Decision 14-15 (Nov. 20, 2023) (referral to ALJ).

provided verified statements. (*Id.* at 1.²) DSR stated that it then served notices of deposition on four individuals, including three of the four witnesses on whom it previously served discovery. (*Id.* at 1-2.) DSR stated that all four witnesses on whom it served written discovery requests objected to the discovery and refused to respond. (*Id.*)

LPPC replied in opposition to this motion on November 24, 2025. LPPC argued, among other things, that the witnesses are not “parties” to the proceeding and, as such, are not required, under the Board’s regulations, to respond to interrogatories or requests for production. (LPPC Reply 4-5, Nov. 24, 2025 (citing 49 C.F.R. § 1114.26, .30).) LPPC also objects to DSR’s subpoena duces tecum on the ground that each witness should be the subject of a separate petition for such a subpoena. (*Id.* at 12-13.) The four shipper witnesses also objected, arguing that they are not parties. (Epstein Letter 1; LP&M Letter 1; Hollybrook Warehouse Letter 1-2; Complex Letter 1-3.) They also want separate subpoenas to challenge. (Epstein Letter 2; LP&M Letter 2; Hollybrook Warehouse Letter 1-2; Complex Letter 3.)

The Surface Transportation Board regulations provide for broad discovery. These regulations provide that “[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding.” 49 C.F.R. § 1114.21(a)(1). The Board has recognized that this regulation allows for broad discovery. *See Canadian Pac. Ry.—Control—Kan. City S. (Decision No. 7)*, FD 36500, slip op. at 4 (Aug. 2, 2021) (acknowledging authority to seek material relevant to subject matter of proceeding under 49 C.F.R. § 1114.21 and interpreting scope of relevance in discovery “[b]roadly”); *CSX Transp. & Del. & Hudson Ry.—Joint Use Agreement*, FD 35348, slip op. at 3 (STB served Aug. 16, 2010) (parties are entitled to discovery regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding and relevance means that information might be able to affect the outcome of a proceeding) (citing 49 C.F.R. § 1114.21).

Since the Board’s December 12, 2025, Decision referring discovery, LPPC filed a Motion to Compel Supplementation of Responses to LPPC’s Document Requests on December 16, 2025.

Discovery from non-parties, however, is different. Regardless, when the Board assigned discovery matters to the undersigned for resolution, the Board wrote: “**The Board expects that the parties and witnesses will make concerted good faith efforts to promptly resolve their disputes.**” *Decision 3* (Dec. 12, 2025) (emphasis added). Thus, the Board did not distinguish between “parties” and “witnesses” about attempting to resolve discovery disputes.

² DSR seeks to depose:

- 1) Robert N. Amacker, Jr., on behalf of Hollybrook Warehouse, Inc. (Hollybrook Warehouse),
- 2) Sam Angel on behalf of Epstein Gin Co. and Epstein Transloading (Epstein),
- 3) Blake Livingston on behalf of Livingston Pecan & Metal, Inc. (LP&M), and
- 4) Jerry J. Melton, on behalf of Complex Chemical Company, Inc. (Complex).

Any other disputed witnesses should be identified and included **now**.

Due to the number of inter-related pending discovery issues, the ALJ will streamline the process as set forth herein.

Replies to pending discovery motions shall be filed on or before Monday, January 5, 2026.

LPPC, DSR, and the attorneys for the disputed witnesses **shall meet and confer**³ to resolve all pending discovery issues on or before Thursday, January 8, 2026.

If all pending discovery issues are not resolved, in full, during the meet and confer, then the ALJ will hold a Status Conference on **Tuesday, January 13, 2026, at 9:00 a.m. Central Time**. Any remaining discovery issues will be discussed at that time.

To facilitate the Status Conference (if necessary), counsel must send a letter to the ALJ (preferably jointly) with a brief description of the issues that remain to be resolved and a list of who will attend, on or before Friday, January 9, 2026, at 9:00 a.m. Central Time.

It is ordered:

1. Replies to discovery motions shall be filed on or before Monday, January 5, 2026.
2. LPPC, DSR, and the attorneys for the disputed witnesses shall meet and confer to resolve all pending discovery issues on or before Thursday, January 8, 2026.
3. Counsel must send a letter to the ALJ (preferably jointly) with a brief description of the issues that remain to be resolved and a list of who will attend, on or before Friday, January 9, 2026, at 9:00 a.m. Central Time.
4. The ALJ will hold a Status Conference on Tuesday, January 13, 2026, at 9:00 a.m. Central Time to discuss any remaining discovery issues.
5. This decision is effective on the date of service.

By the Board, Jenifer J. Soulikias, Administrative Law Judge.

³ DSR's Motion to Strike lists dates on which LPPC and DSR held meet and confer sessions. (DSR Motion to Strike 2.) They shall confer again pursuant to this Decision.