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Office of Chief Counsel
March 5, 2026
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VIA E-FILING

March 5, 2026

Chief of Case Administration
Office of the Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: Docket No. FD 36447-*Lake Providence Port Commission- Feeder Application—Line of Delta Southern Railroad in East Carroll and Madison Parishes, Louisiana*

Dear Sir or Madam:

Attached hereto is a copy of the joint Appeal of a portion of the ALJ's decision issued February 27, 2026, filed by Complex Chemical, Inc. ("Complex Chemical") and the Lake Providence Port Commission ("LPPC"). The return date in the subpoena issued by the ALJ is March 27, 2026. Also, because Mr. Russell, the attorney for Complex Chemical, has surgery scheduled for March 19, 2026, a prompt ruling would be appreciated.

Thank you for your consideration of this request. If you have any questions, please give me or Michael McBride a call.

Respectfully submitted,

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Certificate of Service

A copy of this letter is being served on all individuals shown on the Certificate of Service of the Joint Appeal served herewith.

/s/ Richard H. Streeter

BEFORE THE SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36447

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

**COMPLEX CHEMICAL COMPANY, INC.'S AND LAKE PROVIDENCE PORT
COMMISSION'S JOINT APPEAL OF ONE ASPECT OF THE ALJ'S
FEBRUARY 27, 2026 DECISION AND ORDER**

Complex Chemical Company, Inc. (“Complex Chemical”), a non-party whose President, Mr. Jerry J. Melton, provided a Verified Statement in support of the Amended Application filed herein by Lake Providence Port Commission (“LPPC”) on January 4, 2023, and LPPC hereby jointly appeal one portion of the decision and order of Administrative Law Judge (“ALJ”) Soulikias filed herein on February 27, 2026 (“February 27 Decision and Order”).

I. PORTION OF DECISION AND ORDER BEING APPEALED

This appeal relates solely to ALJ Soulikias’s determination in her February 27, 2026 Decision and Order that Complex Chemical must produce “all documents” via a subpoena duces tecum (Attachment A (“Subpoena”) to the February 27 Decision and Order, categories 1-6) that date back to 1999, including documents that are already in the possession of Delta Southern Railroad, Inc. (“DSRR”), which is of course a party to this proceeding.¹

¹ The aspect of ALJ Soulikias’s decision and order requiring Complex Chemical to produce documents under categories 7-8 of DSRR’s proposed subpoena, as modified in her February 27 Decision and order at the urging of LPPC and Complex Chemical, is not

As ALJ Soulikias has acknowledged, “LPPC and Complex argue the subpoena is substantively defective.” Joint Reply 14-16. They argue that it is overly broad in time, scope , and subject matter, unduly burdensome, and seeks documents readily available to DSRR. *Id.* at 14: February 27 Decision and Order at 9. She then stated that “[t]hese issues **should have been significantly narrowed or resolved** by the meet and confer that was ordered in the Subpoena Duces Tecum Decision (‘SDT’).” *Id.*²

ALJ Soulikias then stated that:

LPPC and Complex argue that of the eight requests, Numbers 1-6 are in the possession of DSRR. (Joint Reply 15.) That is beside the point. DSRR is entitled to ascertain which documents Complex has in its possession to support its arguments relevant to this proceeding. **If LPPC and Complex were to argue that DSRR could obtain those documents, not from Complex, but from another party, then that would be different. But to argue that DSRR already has the documents in its own possession, without more, is insufficient to defeat a subpoena.**

February 27 Decision and Order at 9 (emphasis added).

II. LEGAL STANDARD

This appeal is filed pursuant to 49 C.F.R. § 1115.1, seeking review of a decision issued by an ALJ acting under delegated authority as provided by 49 C.F.R. § 1011. As such, it is timely, because it is being filed within 7 days of the date of the ALJ’s action. See *id.* §

challenged in this appeal, because the ALJ made findings that DSRR has the documents it is seeking in categories 1-6 but did not make a similar finding about the documents in categories 7-8.

² While the ALJ’s frustration may have been understandable, DSRR was unwilling to accept fewer documents than it sought in the proposed subpoena duces tecum to Complex Chemical that is at issue herein. That should not prejudice Complex Chemical.

1115.1(c)(providing 10 days to appeal),³ § 1011.6(b)(providing 10 days to appeal).⁴ A decision must be overturned if the Surface Transportation Board (“STB” or “Board”) finds that there are “exceptional circumstances to correct a clear error in judgment or to prevent manifest injustice.” *Id.* § 1115.1(c). Exceptional circumstances include a lack of authority to adjudicate an issue or misuse of legal precedent. *See, e.g., Del. & Hudson Ry. Co. Unilateral Joint Rate Cancellation*, 2 I.C.C. 2d 631 (Aug. 14, 1986) (granting appeal of the Interstate Commerce Commission’s acceptance of rate surcharges where the action disregarded the statute’s plain language).

Under the Board’s Rules, discovery—including via subpoena—is not permitted if it would be abusive or unnecessary or would subject a person or entity to undue burden or expense.⁵ Courts acting in accordance with the Federal Rules of Civil Procedure (from which the Board’s procedural rules generally are derived) and the Federal Rules of Criminal Procedure have held that it is an abuse of the subpoena process, and therefore improper,

³ 49 C.F.R. § 1115.9(a) provides “Rulings of Board employees, including administrative law judges, may be appealed prior to service of the initial decision only if: . . . The ruling grants a request for the inspection of documents not ordinarily available for public inspection.” *See also id.* § 1115.9(a)(4) (“The ruling may result in substantial irreparable harm, substantial detriment to the public interest, or undue prejudice to a party.”).

⁴ *But see id.* § 1115.9(b) (interlocutory appeals shall be filed with the Board within seven days).

⁵ 49 C.F.R. § 1114.21(c) provides, in relevant part: “Upon motion by any party, by the person from whom discovery is sought, or by any person with a reasonable interest in the data, information, or material sought to be discovered and for good cause shown, any order which justice requires may be entered to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense”

to require an entity to produce documents already in the possession of the party seeking and obtaining the documents.

Moreover, a decision of an administrative agency is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law if it is irrational, including if it is internally inconsistent. *E.g., Motor Vehicle Mfrs. Ass’n of U.S. Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

III. FACTUAL BACKGROUND

A. Procedural History.

Much of the relevant procedural history is set out in the ALJ’s decision and order served February 16, 2026. For clarity, after the Board lifted the order of abeyance in this proceeding in its decision and order issued on September 25, 2025, DSRR served interrogatories and requests for documents (cumulatively, “written discovery”) on several non-party shipper witnesses (and deposition subpoenas on representatives of LPPC and North Louisiana and Arkansas Railroad (“NLA”)). The transmittal letters with the written discovery requests to the non-party shipper witnesses (who are not attorneys and whose Verified Statements were filed with LPPC’s Amended Application) claimed without basis that they are “parties” to this proceeding. After being compelled in the circumstances to retain counsel, the non-party shipper witnesses uniformly advised DSRR that they are not parties to this proceeding and thus are not required to respond to such written discovery under 49 C.F.R. §§ 1114.26 and 1114.30.

Unpersuaded, DSRR filed motions to compel such written discovery from the non-party witnesses or, in the alternative, for issuance of deposition subpoenas duces tecum to

such witnesses as well as deposition subpoenas to the representatives of LPPC and NLA. LPPC and the non-party witnesses opposed DSRR's motions, and following an oral argument before the ALJ on January 13, 2026, ALJ Soulikias in her January 16, 2026 decision and order denied DSRR's motion to the extent that it sought to pursue written discovery from the non-party witnesses and denied without prejudice DSRR's motion for issuance of deposition subpoenas (or, in the case of Complex Chemical and Mr. Melton, a subpoena only for documents) to the non-party shipper witnesses. Following required meet-and-confer discussions, counsel for LPPC, the non-party shipper witnesses, and DSRR agreed on deposition subpoenas duces tecum to the non-party shipper witnesses, but could not agree on the scope of the documents to be compelled via the non-deposition subpoena for documents from Complex Chemical.

On February 9, 2026, DSRR then informed ALJ Soulikias via motion of the agreement of DSRR, LPPC, and the non-party shipper witnesses as to deposition subpoenas duces tecum to several non-party witnesses, and deposition subpoenas to witnesses for LPPC and NLA, but that the parties could not agree on the scope of documents sought from Complex Chemical,⁶ and DSRR moved for issuance of such subpoenas. Given the agreement of counsel for DSRR, LPPC, and the non-party witnesses, the non-party witnesses other than Complex Chemical did not reply to DSRR's motion.

⁶ DSRR did not then seek to depose Mr. Melton of Complex Chemical, but sought to reserve the right to do so at a later date. ALJ Soulikias pointedly noted that DSRR did not have the unilateral right to postpone seeking a deposition of Mr. Melton. February 27, 2026 Decision and Order at 5 n.6 (noting that the ALJ's January 16, 2026 decision and order set a deadline for seeking such a deposition, and that deadline has passed).

As noted *supra*, Complex Chemical and LPPC, however, jointly replied to DSRR's motion, challenging issuance of the subpoena duces tecum to Complex Chemical on various grounds, including that many of the documents sought are within the possession of DSRR and that issuance of the subpoena would thus be abusive, unnecessary, and unduly burdensome and expensive, with Complex Chemical explaining to the ALJ that the discovery process had already cost it tens of thousands of dollars.

B. Factual Background

As here relevant, Complex Chemical owns and operates a chemical facility in Madison Parish Port, Louisiana, which is at approximately Milepost ("MP") 491.0 on the McGehee, Arkansas (MP 408.9)—Tallulah, Louisiana (MP 498.44) rail line ("Line") at issue in this proceeding. As such, it is served by DSRR, which transports railcars containing chemicals to Tallulah, LA to interconnect with Canadian Pacific Kansas City's (formerly Kansas City Southern Railway Company's) Meridian Speedway. Mr. Melton's Verified Statement, submitted with the Amended Application on January 4, 2023 (and also attached to the subpoena duces tecum issued by ALJ Soulikias on February 27, 2026), stated, as here relevant:

2. Complex Chemical produces brake fluid, antifreeze/coolants, Lubrications, oil additives, materials used in paving, mining & drilling, and various glycols via distillation of glycol residues for multiple markets. It is heavily dependent upon rail service for 50% of its gross revenues. In 2021, due to Covid-19, Complex only received or shipped 850 jumbo railcars of material. Immediately thereafter, there was a surge of demand as customers had literally run out of product. However, because they needed immediate service, Complex Chemical was forced to switch to trucking to keep up with demand. It is anticipated that the recently completed expansion of a glycol distillation project and the installation of an additional reactor to expand capacity for manufacturing materials for the mining and drilling

markets will increase our need for adequate rail service and surpass the 1,100 jumbo carloads that we received or shipped from 4/30/2019 to 5/1/2020. To illustrate the financial benefits that the various railroads have received from Complex Chemical over the years, I ask the Board to consider the fact that in 1987, we received only 3,270 tons of product consisting of intermediate feedstocks and base oils for further processing and shipped 2,660 tons of brake fluids and lube oil additives for crankcase lubrications. Because the line between McGehee and Tallulah was saved from abandonment in 1988, Complex Chemical has been able to prosper and contribute to the railroads' and the region's economy.

3. For many years, Complex Chemical was able to route traffic over either the Delta Southern Railroad, Inc. ("DSRR")/the Kansas City Southern Railway Company ("KCS") or DSRR/ the North Louisiana & Arkansas Railroad ("NLS") and the Union Pacific Railroad Company ("UP"). However, DSRR's extended refusal to maintain its line between MP 471.0 and 491.0 has deprived Complex Chemical of its ability to reach NLA and UP directly. Because of that loss, Complex Chemical has been forced to utilize the much longer DSRR/KCS/UP routing at a much higher rate than the rate paid for its DSRR/NLA/UP routing.

4. Complex Chemical currently supplies roughly 30% of all the DOT 3 and DOT 4 brake fluid sold in the United States. It also manufactures three (3) products that are used in roughly 40% of all the heavy-duty diesel crank case oil sold in North America. The expansion and capacity increase will allow Complex Chemical to be the second largest producer of glycols from residues in the United States.

5. This is significant in that Complex Chemical has 15 outbound destinations scattered throughout the United States, Canada and Mexico. In addition, it has inbound material from points in Texas, Louisiana, and Canada. Seven (7) of its outbound customers are captive UP customers, while four (4) are captive KCS customers. In terms of incoming materials, five (5) origins are captive UP customers. As a result, the relationship between Complex Chemical and UP is significant.

6. As I previously stated in my sworn letter filed in this proceeding in April 2021, having to pay the higher rates that are charged for the current routing that has been created by DSRR's refusal to maintain its rail line imposes a penalty on Complex Chemical. As a result, I view DSRR's owner's self-imposed refusal to bear the cost of maintaining its own line as a restraint on trade and contrary to the public convenience and necessity and the public interest. That

restraint also causes its service to be inadequate from an economic standpoint. While it may be financially rewarding for DSRR to exact higher rates while collecting rental payments for storing railcars on its mainline, that action is, in my mind, a violation of its statutory rail common carrier obligation. Furthermore, I request the Board to note that DSRR's storage activities are troublesome due to the fact that the crossing at the entrance of the Port is blocked excessively when DSRR is switching rental storage cars.

7. I firmly believe that LPPC's ownership of the entire Lake Providence Branch Line promises to restore competitive direct routings to Complex Chemical. In addition, because Complex Chemical has been the largest of DSRR's customers and the major shipper on the direct line to UP at McGehee, Arkansas, I also believe that LPPC's ownership will directly contribute to the local region's economic prosperity as has Complex Chemical. The same would not be true of a railroad that has no existing ties to northeast Louisiana and southeast Arkansas which would skim needed revenues from LPPC and NLA.

Accordingly, Complex Chemical strongly supports granting LPPCs Amended Application requesting that the Board order the DSRR portion of the rail line, from approximately MP 471.0 to MP 498.44, be transferred to LPPC (in the name of the State of Louisiana) because of the condition of the DSRR's tracks between Madison Parish Port at MP 491.0 and the Lake Providence Port at MP 471.0 and because DSRR refuses to bring those tracks up to an acceptable level for Complex Chemical or its chemical suppliers to be willing (or indeed legally permitted) to have its cars, including those containing hazardous materials, be transported over that portion of the Line.⁷

⁷ As DSRR explicitly stated in its verified Petition for Exemption (at 6) filed in *Delta Southern Railroad, Inc.—Abandonment Exemption—In Desha and Chicot Counties, AR*, Docket No. AB-384 (Sub-No. 3X), filed December 6, 2010, with respect to the same rail line as at issue herein:

Virtually every rail length in the Rail Line has excessive defective crossties in clusters and under joints, such that crosstie conditions do not comply with minimum FRA Class I track safety standards. Track

LPPC must also note that the Board, at page 8 of its Decision served herein on August 23, 2022, cautioned LPPC that “the amended application must include all historical information known or reasonably available to LPPC in support of its case-in-chief for a Board-ordered sale.” Moreover, the Board noted that “[i]n particular, the amended application should identify with specificity all shippers who contend that they have been refused interchange by, or otherwise received inadequate service from, DSR, and provide detailed supporting evidence of the alleged refused or inadequate service.” *Id.* at n. 18.

As a current and long-time substantial customer of DSRR, DSRR is of course well-familiar with Complex Chemical and with transporting Complex Chemical’s loaded and empty chemical railcars into and out of its chemical manufacturing facility. Nevertheless, DSRR proposed a subpoena duces tecum to Complex Chemicals seeking “All documents” in several categories (1-6) that in some instances would go back 40 years. In otherwise granting DSRR’s request for a subpoena to Complex Chemical, ALJ Soulikias limited “all

alignment, cross-level and gage are also out of compliance with FRA Class I standards at numerous locations. Eight bridges on the Rail Line are in serious need of extensive repair. There are numerous defective rails. The cumulative effect of these conditions has been to seriously compromise safety of operations over the Line. As a result, DSR has embargoed rail operation over the Line due to track conditions, effective November 2, 2010.

document” requests to 1999-present, and modified Categories 5 and 7 (in ways not relevant to this appeal).⁸

Although ALJ Soulikias seized on the 1999 date that the Wainwrights acquired the Line at issue when she issued her February 27 Decision herein, she did not explain in any manner why that date should apply to production of documents by a non-party shipper such as Complex Chemical. Plainly, there is nothing in any decision issued by the Board that remotely suggests that the Board intended to require the non-party shipper witnesses to respond to subpoenas duces tecum submitted by the second entity that owned the railroad since the Wainwrights owned it that seek “all documents” dating back to 1999.

IV. ARGUMENT

It is an abuse of the subpoena process to seek to compel production of documents from 199, especially when documents related to DSR’s rail service are already in possession of a party to the proceeding, and which would be unduly burdensome. See, e.g., *Wiwa v. Royal Dutch Petroleum Co.*, 392 F.3d 812, 818 (5th Cir. 2004) (test for whether a subpoena is unduly burdensome is: “(1) [the] relevance of the information requested; (2) the need of the party for the documents; (3) the breadth of the document request; (4) the time period covered by the request; (5) the particularity with which the party describes the requested documents; and (6) the burden imposed.” Prongs (2) and (6) demonstrate that a party cannot subpoena a non-party for documents it already has in its possession.); *Misc. Docket #1 v. Misc. Docket #2*, 197 F.3d 922, 926 (8th Cir. 1999) (affirming the District

⁸ As noted above, this appeal does not challenge ALJ Soulikias’s determination to require production of documents under categories 7-8 of the subpoena duces tecum as modified by ALJ Soulikias.

Court’s quashing of a subpoena seeking to take a second deposition of a non-party because the witness had already been deposed on the same topic—“appellants had the opportunity to ask questions concerning harassment and non-harassment matters pertaining to the Florida case at the Colorado deposition, but did not do so”); *Cusumano v. Microsoft Corp.*, 162 F.3d 708, 716 (1st Cir. 1998) (shielding non-parties from a subpoena where the information was “equally available” from the requesting party’s own files or from party witness (noting that Microsoft had some relevant material in its possession and declining to disturb District Court finding that the information sought by subpoena was “otherwise available to Microsoft by direct discovery.)); *EEOC v. Skywest Airlines, Inc.*, No. 3:22-CV-1807-D, 2024 WL 84211 (N.D. Tex. Jan. 8, 2024) (quashing subpoena when documents demanded were available via other means); *Andra Grp., LP v. JDA Grp. Software, Inc.*, 312 F.R.D. 444 (N.D. Tex. 2015) (quashing subpoena to non-party because it appeared documents were available from a party. The court said that the issue may be revisited only if there are no duplicative documents being sought from the non-party); see also, e.g., *United States v. Nixon*, 418 U.S. 683, 699 (1974) (to be subject to subpoena under Fed. R. Crim P. 17(c), the documents must “not [be] otherwise procurable reasonably in advance of trial by exercise of due diligence”); *United States v. Abdush-Shakur*, 465 F.3d 458, 467 (10th Cir. 2006) (same); Fed. R. Civ. P. 26(b)(2)(C)(ii) discovery requests “not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and the requests are (iii) neither unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior discovery in the case”); *Bada Co. v. Montgomery Ward & Co.*, 32 F.R.D. 208 (S.D. Cal.1963) (good

cause required; subpoena quashed if unreasonable and overbroad); *City of Colton v. Am. Promotional, Inc.-W.*, No. CV 05-01479-JFW (SSx), 2006 WL 8436702 (C.D. Cal. Feb. 6, 2006) (documents should be sought from parties under Fed. R. Civ. P. 34 rather than from non-parties); *Michaels Fabrics, Inc. v. Donegal Mut. Ins. Co.*, No. 24-cv-1585-JRR, 2024 WL 3849529 (D. Md. Aug. 16, 2024) (subpoena should not be sustained if unduly burdensome). See also *St. Matthew Publ'g., Inc. v. United States*, 41 Fed. Cl. 142, 147 (1998) (granting the government's motion for protective order on grounds of undue burden and duplicative information as weighed against the minimal likelihood that further discovery was reasonably calculated to lead to newly admissible evidence); see also *In re Weatherford Int'l Secs. Litig.*, No. 11 Civ. 1646(LAK)(JCF, 2013 WL 5788687 (S.D.N.Y. Oct. 28, 2013) (granting motion to compel to the extent of non-duplicative documents turned over previously to the Securities and Exchange Commission in response to prior subpoenas but not for duplicative documents).

It is plainly an abuse of the subpoena process to compel a non-party to this proceeding to have to bear the unnecessary burden and expense to produce documents for DSRR which are already in possession of DSRR, as the holdings of the above-cited cases confirm.⁹

⁹ In her February 27, 2026 Decision and Order (at 2-3), the ALJ referred to the Board's decision issued on August 22, 2022 that required LPPC to submit all relevant evidence with its Amended Application, and to its decisions served November 20, 2023 and December 11, 2023, that accepted the Amended Application as complete, but those matters are not relevant to whether DSRR is entitled to demand that Complex Chemical produce documents already in the possession of DSRR.

Moreover, the above-quoted part of ALJ Soulikias’s decision is internally inconsistent, because she acknowledged (at 9, emphasis added) that Complex Chemical should not have to produce documents in the possession of a party: **“If LPPC and Complex were to argue that DSRR could obtain those documents, not from Complex, but from another party, then that would be different.”** But that is precisely what Complex Chemical and LPPC argued—that the documents sought are in the possession of DSRR, which is obviously a party to the proceeding. Indeed, in the very next sentence, quoted above, ALJ Soulikias acknowledged that DSRR was not entitled to a subpoena requiring Complex Chemical to produce documents if DSRR were able to obtain the documents from a party to the proceeding: **“If LPPC and Complex were to argue that DSRR could obtain those documents, not from Complex, but from another party, then that would be different.”** But obviously DSRR can obtain the documents at issue from a party to the proceeding—itsself! The ALJ’s ruling requiring Complex Chemical to provide documents to DSRR already in possession of DSRR is thus internally inconsistent and irrational. Internally inconsistent decisions are inherently arbitrary and capricious and cannot be upheld. *E.g., State Farm*, 463 U.S.at 43.¹⁰

¹⁰ Given that the Board’s regulations, at 49 C.F.R. § 1220.6, establish the required period for retention of many categories of railroad companies’ records is primarily limited to 3 years or less, it is absurd and unreasonable that non-party shipper witnesses would be ordered to provide 27 years’ worth of documents in response to a subpoena. This issue would be moot if the Board grants this appeal and denies the subpoena to the extent that it requires “all documents” included in categories 1-6. However, if the Board does not grant this appeal on the primary grounds presented, it should limit the “all documents” requirements of categories 1-6 of the subpoena to the last three years, i.e., January 1, 2023 to the present, which would be consistent with the filing of the Amended Application herein on January 4, 2023 and with the Board’s regulation that generally requires railroads only to retain documents for at most three years.

We close with a plea to the Board to see through what is happening here, and not to merely treat this as a discovery matter that it would prefer to let the ALJ handle, correctly or incorrectly.

Instead, this is just the latest effort by DSRR to delay, obstruct, and prolong this proceeding. For over five years, it has filed several motions to dismiss, reject, strike, or what-have-you, and now the latest is to move to compel discovery from non-party shipper witnesses who merely want a railroad to provide them needed common carrier transportation in one of the poorest and neediest regions of the United States. DSRR obviously intends to continue to obstruct and delay, with an added strategy of harassing the people who are depending on this Board to provide for needed rail transportation.

As part of its latest campaign, DSRR now seeks to compel a great company that is one of its customers to provide documents covering a time period of over 40 years (which the ALJ reduced to 27 years). Moreover, the ALJ acknowledges that these documents are already in DSRR's possession, even while she (inconsistently) acknowledged that DSRR should **not** be able to compel production if it could get the same documents from a party. But of course, it can get the documents—it already has them! Note that Complex Chemical (and LPPC) are not objecting to providing documents (category 8 of the subpoena duces tecum) relating to the Verified Statement of its President in support of the Amended Application. But the ALJ seemingly did not take into account DSRR's conduct over the last five years of this proceeding, in which it has done everything possible—thus

far successfully—to avoid the merits of the proceeding, perhaps because she rightly sees her role as limited to discovery and not to the merits.

But in that case, the Board cannot avoid its responsibilities here. It should firmly reject DSRR’s effort at abusing the Board’s discovery rules (which it has said before it would not permit to be abused) by rejecting DSRR’s efforts to compel Complex Chemical to produce documents already in DSRR’s possession. In so doing, it would set a precedent for other STB proceedings that similar abuses will not be countenanced.¹¹

And then it can finally set a procedural schedule that, at long last, compels DSRR to file its first substantive pleading—i.e., its Response to the Amended Application.

We so pray.

V. CONCLUSION

Accordingly, the February 28 Decision and Order of the ALJ requiring Complex Chemical to produce documents in categories 1-6 of the subpoena duces tecum issued to Complex Chemical and its President, Mr. Melton, which are already in possession of DSRR should be reversed as contrary to the Board’s Rules preventing the abuse of the discovery

¹¹ *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings*, EP No. 527, 1 S.T.B 754, 766-67 (1996) (“With the exception of the situation in which a party wishes to take a deposition, no commenter objected to these proposals. With regard to depositions, some commenters expressed the concern that depositions could be used as a harassing tool in litigation, and they request that a Board order be required before a deposition can be taken. We do not share their view that Board authorization is necessary. We recognize that any type of discovery can be abused, and, for that reason, we stand ready to intervene when necessary. The comments, however, generally indicate that depositions are seldom used in preparation for litigation before the Board. We see no reason to believe that depositions will be used more frequently in the future, or that such discovery will be used for harassment. Thus, we will not make an exception for depositions and require prior Board approval. We see no need to become involved in discovery until a problem arises.”).

process, and the Board should further determine that DSRR may not further pursue obtaining such duplicative documents from Complex Chemical.

Respectfully submitted,

/s/ Richard H. Streeter

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/s/ Michael F. McBride

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/s/ Glover Alcorn "Russ" Russell, J.D., LL.M, C.P.A.

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Attorney for Complex Chemical Company, Inc.,
and Jerry J. Melton, President

Dated: March 5, 2026

CERTIFICATE OF SERVICE

I, Richard H. Streeter, do hereby certify that, on March 5, 2026, true copies of the foregoing with attachments were served 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: alj.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
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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
sanetttria.pleasant2@la.gov

- (3) County governments where the line is located:
East Carroll Parish Police Jury

Kendall Thompson, President
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Madison Parish Police Jury
Jane Sanders, President
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/s/ Richard H. Streeter

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Dated: March 5, 2026