



GENTRY LOCKE
Attorneys

John M. Scheib
Scheib@gentrylocke.com
P: (757) 916-3511
F: (540) 983-9400

308493
ENTERED
Office of Proceedings
July 25, 2024
Part of
Public Record

July 25, 2024

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:

On July 22, 2024, DSRR filed its Reply to Lake Providence Port Commission’s Opposition to Dismiss and For Attorneys’ Fees (“DSRR Reply”). Subsequently, we obtained from counsel in the state court proceeding a final copy of the court transcript, a true and correct copy of which is attached to this letter. That proceeding had to pause for noise while a DSRR train went by. Transcript at 23 (highlighting added). We hereby provide that transcript for the following points made in the DSRR Reply.

- DSRR made the point that the Louisiana court had considered the arguments raised by LPPC’s request that the Board take official notice of actions by other agencies and had rejected them. DSRR Reply at 5. The Transcript at pages 3-6 (highlighting added) reinforces DSRR’s point.
- DSRR made the point that LPPC’s claim that it might amend the application yet again to shrink the line segment sought in the feeder line application would be contrary to its prior representations to the Board. DSRR Reply at 6. The transcript reinforces that point as well. Transcript at page 10 (informing the court that “having a rail line that runs from Arkansas Louisiana line to the Madison ah East Carroll line and, and to points in between is completely impractical for the port . . .”) (highlighting added).

Second, all documents attached to the DSRR Reply are true and correct copies.

Finally, we note a few minor errata in the DSRR Reply. On page 5, strike “Although not argued in its motion to dismiss,”. On page 6, strike “It was”. On page 12, “LPPS’s” should read “LPPC’s”. On page 13, “LPPC’s tactics in filling a case it had no power to file . . .” should read “LPPC’s tactics in filing a case it had a choice to file . . .”

Thank you for your consideration and if you have any questions, please feel free to contact me.

Respectfully submitted,

/s/ John M. Scheib

John M. Scheib

Attorney for Delta Southern Railroad

cc: Parties of Record

COPY

SIXTH JUDICIAL DISTRICT COURT
PARISH OF MADISON
STATE OF LOUISIANA

DELTA SOUTHERN RAILROAD, INC.

VERSUS

CASE NO. 23740

LAKE PROVIDENCE PORT COMMISSION, ET AL

APPEARANCES:

Ms. Leila A. D'Aquin
Mr. Edward T. Hayes
LEAKE & ANDERSON, LLP
1100 Poydras Street #1700
New Orleans, LA 70163

ATTORNEYS FOR PLAINTIFFS

Mr. John Crigler, Jr.
BISHOP PAXTON CRIGLER & MOBERLEY
607 East Askew Street
Tallulah, LA 71282

ATTORNEY FOR DEFENDANT

PROCEEDINGS HAD in the above matter before His Honor, James Boddie, Judge Ad Hoc, of the Sixth Judicial District Court, in and for the parish of Madison, state of Louisiana, on May 23, 2024.

EXHIBIT C

1 CASE NO. 23740

2 May 23, 2024

3 P R O C E E D I N G S

4 BAILIFF:

5 All rise! The Six Judicial District Court for
6 the Parish of Madison is now in session with the
7 Honorable Judge James Boddie presiding.

8 THE COURT:

9 You may have a seat. Do we have all of the
10 counselors that we are supposed to have?

11 MR. CRIGLER:

12 Yes sir, I believe so.

13 THE COURT:

14 All right. I'm sure they'll want you up, up
15 there so they will pick you up. Madam Court
16 Reporter, do you have any specific spot you want him
17 to be?

18 COURT REPORTER:

19 In front of a mic.

20 MR. CRIGLER:

21 There we go.

22 THE COURT:

23 Fair enough. All right, since this is an East
24 Carroll Parish case, I will be as clear as I
25 possibly can. Okay. Let the record reflect that the
26 case that is being called for hearing today is Delta
27 Southern Railroad, Inc. versus Lake Providence Port
28 Commission. Wyly Gilfoil, Mark Buntyn, Roger
29 Clement, I don't know.

30 MR. CRIGLER:

31 It is.

1 THE COURT:

2 It is?

3 MR. CRIGLER:

4 Yes, sir.

5 THE COURT:

6 I speak French so I tend

7 MR. CRIGLER:

8 I, that was

9 THE COURT:

10 to put,

11 MR. CRIGLER:

12 good. He would probably appreciate that.

13 THE COURT:

14 Jerry King, Francis Lensing, Karvan Powell, and
15 James Tom IV. And let the record reflect that the
16 hearing is on Delta Southern Railroad Inc's petition
17 for extraordinary Writs, more specifically petition
18 for Writs of quo warranto and Mandamus. Let the
19 record further reflect that this is case number
20 23740, again, Sixth JDC; however it is an East
21 Carroll Parish case. But by agreement of all counsel
22 and the Court, and for the sake of convenience for
23 all, everyone agreed that the matter be heard here
24 in Madison Parish, Louisiana. Let the record further
25 reflect that there was a telephone conference duly
26 scheduled and held whereat the Court advised counsel
27 to please file pre-hearing briefs on the petition
28 for extraordinary Writs. They have done so. They
29 were forwarded to me and I have reviewed them, again
30 recognizing the need for a considered decree, of
31 course, but as expeditious as possible, considering

1 what we are involved with here today. Was that
2 accurately stated?

3 MS. D'AQUIN:

4 Yes, Your Honor, it was.

5 MR. CRIGLER:

6 Yes, sir.

7 THE COURT:

8 Okay. Now make your appearances for the record
9 please and whom you represent.

10 MS. D'AQUIN:

11 Your Honor, Leila D'Aquin and Edward Hayes on
12 behalf of Delta Southern Railroad.

13 MR. CRIGLER:

14 Good afternoon, Judge. Johnny Crigler on behalf
15 of the Port Commission on the other named
16 defendants.

17 THE COURT:

18 It is so noted. Again, this is not to be
19 construed as the curtail your argument at all, which
20 y'all need to read 'em to me, your briefs, your pre-
21 hearing briefs. And let the record reflect that,
22 that all parties still have the opportunity to file
23 pre-hearing briefs per my instructions. They did
24 that. Think I'm ready.

25 MS. D'AQUIN:

26 Thank you, Your Honor. Ah Your Honor, just ah
27 briefly, we did file a pre-hearing briefs. **The**
28 defendants actually elected not to file a pre-
29 hearing brief and simply filed an answer with what
30 **they attaching, what they proposed as some evidence,**
31 **and I'd like to begin there. Ah, because if I can**

1 began at the back, the three letters that are
2 attached, of course, are, are hearsay and
3 inadmissible and beyond that, they're irrelevant.
4 All they do is speak to the current views of three
5 particular legislators about whether a project might
6 be a good thing or a bad thing. They don't speak to
7 what the law is or ever was. Ah and so they're
8 really not of any relevance to the case, but they
9 would be hearsay in any, in any event.

10 THE COURT:

11 You wanna respond to that?

12 MR. CRIGLER:

13 If, if I need to have the ah individual who
14 receives set letters here to testify, I'm prepared
15 to call him and can, can have him here. I don't know
16 that, that would solve her ah.

17 THE COURT:

18 In my view, they are inadmissible not only
19 because of hearsay, but legislative intent is to
20 determine before a statute is enacted.

21 MR. CRIGLER:

22 True.

23 THE COURT:

24 It is determined by the historical facts leading
25 up to the passage of the statute. So, it's
26 obviously, this would be there after it would have
27 no relevance. For those reasons, sustained.

28 MS. D'AQUIN:

29 Thank you, Your Honor. The, the other exhibits
30 that are attached are also really irrelevant in that
31 ah, ah bond commission resolution does not have,

1 have anything to do with the, with whether the
2 project for which the bond is to be issued is
3 something that can legally be undertaken by the, by
4 the body that is issuing the bond. Ah it's no
5 question that the Port Commission has the authority
6 to seek bond funding. No question that at all.

7 THE COURT:

8 I agree.

9 MS. D'AQUIN:

10 But the Bond Commission does not have any
11 ability to authorize the Port Commission to expand
12 its jurisdiction or to undertake projects or acquire
13 property outside of its bounds. So those documents
14 are also irrelevant. The ah the Louisiana ah
15 Department of Highways ah, materials that are
16 attached, likewise are not of, of any relevance. The
17 Department of Transportation and Development doesn't
18 undertake any responsibility for acquiring title to
19 the property or any rights-of-way and agrees with
20 the Department of Transportation Development, the
21 intergovernmental records make clear that, that
22 responsibility lays with the Port Commission, that
23 it, it has to come with clear title or rights-of-
24 way. So, those document are also irrelevant, and we
25 would therefore say are inadmissible in this
26 proceeding.

27 THE COURT:

28 I agree. But, do you have a response to chage my
29 mind?

30 MR. CRIGLER:

31 I'd, I don't know that I'm gonna be able to

1 change your mind based on that, Your Honor. I just
2 feel like they, I mean,

3 THE COURT:

4 I don't think,

5 MR. CRIGLER:

6 to claim that they're irrelevant is,

7 THE COURT:

8 well, they're

9 MR. CRIGLER:

10 broad.

11 THE COURT:

12 totally irrelevant in my view because this is a
13 question of law.

14 MR. CRIGLER:

15 Yes, sir. Understood.

16 MS. D'AQUIN:

17 And with that, Your Honor, it is, it is a
18 question of law. And we believe that it's a very
19 clear,.....case under Article 9 of the Civil Code ah
20 you've got, you've got ah.

21 THE COURT:

22 Just so all of you know. I'm very civilian
23 minded.

24 MS. D'AQUIN:

25 Yes,

26 THE COURT:

27 'Cause I said

28 MS. D'AQUIN:

29 Your Honor.

30 THE COURT:

31 I do speak some French. I been known to

1 translate some French in the old days.

2 MS. D'AQUIN:

3 And, Your Honor. On the drive up, I was re-
4 reading the, the Court of Appeals opinion in the
5 Crook's case which quotes for Your Honor's decision
6 substantially, and reflects your, your, your
7 penchant for looking at the history very carefully
8 and understanding the history of how a law
9 developed, or in that case, the history how a body
10 of water existed over time, going back to the time
11 that Louisiana was admitted to the union.

12 THE COURT:

13 It was, it's significance, wasn't it?

14 MS. D'AQUIN:

15 It was, it was quite significant. And
16 obviously, the expert testimony was very important
17 in that case. In this case, Your Honor, we do
18 believe this is a simple matter of a clear and
19 unambiguous law. On the very face of the statute,
20 it says that the LPPC can only operate within, only
21 has jurisdiction within the bounds of East Carroll
22 Parish. And in fact, when it was adopted, the
23 statute said, as those bounds exist today, which
24 sent me immediately looking back to the history to
25 see have the bounds of East Carroll Parish changed
26 at some point, since then. And I discovered that
27 the last time the boundaries of Carroll Parish
28 changed was when it was divided into East and West.
29 So

30 THE COURT:

31 No

1 MS. D'AQUIN:

2 every,

3 THE COURT:

4 surprise.

5 Ms. D'AQUIN:

6 every since the statute was enacted, the Port
7 Commission has only had the authority to act within
8 East Carroll Parish. What's attempting to do here
9 is to take property that is in Madison Parish.
10 There is a Madison Port Commission that has the
11 authority to acquire property in Madison Parish for
12 the sake of the Madison Port. But that does not
13 mean that the, that the LPPC has the authority to
14 come, to extend over the bounds that were set by the
15 State Legislature when it adopted the statute and
16 give it its authorization to come into this parish.
17 In fact, if, if the Court were to accept the LPPC's
18 position, they could acquire property wherever they
19 want. Tthey can come down to New Orleans and say
20 it's for the good of what's going on in the Lake
21 Providence Port for us to take this property, so
22 we're gonna take this railroad line, going all the
23 down to South Louisiana. Ah, obviously that's not
24 permissible; that will step on the toes of lots of
25 other port commissions along the way and private
26 property owners and landowners all the way down, and
27 that is not what the legislature intended. In fact,
28 there are numerous statutes that have been adopted
29 in Louisiana establishing port commissions. And the
30 legislature had been very good and very clear about
31 defining what the jurisdictional limits are of each

1 of those commissions as they been adopted. The
2 Greater Baton Rouge Port Commission ah allows for
3 the powers ah conferred to that commission to be
4 exercised within East Baton Rouge Parish except for
5 an industrial Parish areas as determined by the ah
6 plan of government for the Parish of East Baton
7 Rouge. Ah you know the ah Lake Charles Harbor and
8 Terminal District ah has very specific rights ah
9 very specific jurisdiction, each of them does. And
10 ah I can certainly go through all of em for the
11 Court but it's probably not necessary at this time.
12 So that, I think that's very clear. Ah this is, as
13 Your Honor points out, a petition for extraordinary
14 writs. The burden of proof on quo warranto is on
15 the corporation who is challenged to demonstrate
16 that it, as a matter of law, has the right to
17 exercise the powers that it is exercising. We don't
18 believe that the answer or any thing else provided
19 by the LPPC has done that. So I would prefer to
20 reserve my time really and respond to what the LPPC
21 says about how it can carry its burden of proof.

22 THE COURT:

23 Okay.

24 MR. CRIGLER:

25 Judge, I think ah, I don't, can't disagree that
26 I ah, this is a, a legal question based on the
27 statute. We obviously have a differing view on how
28 the statute is to be read. I think our answer ah
29 did state that, you know, their narrow reading of
30 the statute which focuses on the initial portion,
31 fails to ah, fails to take into account the latter

1 part of the statute which we believe gives the Port
2 Commission the authority to act outside of East
3 Carroll Parish. Ah from a practical standpoint, any
4 rail usage outside or within the parish is, is
5 impracticable. The, the, having a rail line that
6 runs from the Arkansas Louisiana line to the Madison
7 ah East Carroll line and, and to points in between
8 is completely impractical for the port and its
9 purpose and its efforts to improve the ah,
10 industrial transportation of crops or chemicals or
11 everything else that serves this port, the port in
12 East Carroll, the port in Madison, the port in
13 Tensas Parish, and the port in Vidalia. And,
14 they've work in conjunction in every aspect of,
15 basically everything that they do, in an effort to
16 having more regional approach and be more effective
17 as, you know, the ports rather than just to their
18 specific parish, you know, across this region. Ah
19 and, I, I don't ah I, I just can't, can't fathom
20 where they wouldn't be authorized to, to do that. I
21 understand the ah Delta Southern's arguments
22 completely ah, but however, a, we strongly believe
23 it was the legislature's intent to enable them to ah
24 perform outside of the boundaries of East Carroll
25 Parish. And I, I did not have them to attach, but
26 I have here which I'll provide to counsel and the
27 Court some deeds ah ironically between Delta
28 Southern Railroad and the Lake Providence Port
29 Commission for a ah rail line in Arkansas. So that
30 was done in August of 2011. So I, I don't know
31 that,

1 THE COURT:

2 Well, but indeed would be consensual, would it
3 not?

4 MR. CRIGLER:

5 It would be, it would be. But ah, there was no
6 ah,

7 MR. CRIGLER:

8 no issue with any authority to act ah at that,
9 at that juncture. But because their efforts to
10 rehabilitate some lines, you know, from East Carroll
11 south ah conflicts with Delta Southern's usage of
12 said line apparently ah, what we're here today. I
13 just, I don't, I don't know what else to respond to
14 here. I didn't get a, a brief from Delta Southern
15 ah after, I guess our, our conference. I obviously
16 filed the answer but I,

17 THE COURT:

18 You didn't get their copy?

19 MR. CRIGLER:

20 I didn't.

21 MS. D'AQUIN:

22 It was sent to you by email, but I can provide
23 you with a copy of it

24 MR. CRIGLER:

25 Yeah, that's

26 MS. D'AQUIN:

27 in addition.

28 MR. CRIGLER:

29 fine. I mean not, not that, that's gonna change
30 any of, obviously their position,

31 THE COURT:

1 Well, I'll give you
2 MR. CRIGLER:
3 position,
4 THE COURT:
5 time to look at it if you'd like, I certainly
6 will. It's pretty much what she said of course,
7 MR. CRIGLER:
8 I'd, yeah, and I'm, I'm, I'm not, I'm not
9 arguing that or, or, or going to ah, I didn't, I
10 didn't, when, when did you email that to me?
11 MS. D'AQUIN:
12 When we filed it on
13 THE COURT:
14 Monday, wasn't it?
15 MS. D'AQUIN:
16 Monday afternoon.
17 MR. HAYES:
18 Monday afternoon.
19 MS. D'AQUIN:
20 Monday afternoon.
21 MR. CRIGLER:
22 Okay. Umm, I'll check and see, but I, I did not
23 get that. But, Judge, at, at this time I will ah,
24 THE COURT:
25 I'll pause a few minutes if you'd like to look.
26 MR. CRIGLER:
27 No, I'm, I'm fine. I'd, I've, I don't have ah,
28 anything further to say at this time, Your Honor.
29 MS. D'AQUIN:
30 And, Your Honor, just briefly. Counsel suggests
31 that the ports in several parishes need to work

1 together to have a regional approach. That's not
2 what's happened here. The, the proceeding that's
3 been filed in the surface transportation board has
4 been filed by the LPPC. And it seeks to take
5 property that's in Madison Parish. It's not in East
6 Carroll Parish. That is beyond what's doing. If
7 there's, there's the, the, the Madison Port
8 Commission is not a party to that proceeding ah,
9 hasn't made an appearance here, hasn't done anything
10 else of the kind. That would be a different issue
11 and one which, frankly, I haven't analyzed or looked
12 at today because the question here is pretty narrow
13 is, does the, does the LPPC have the authority to
14 act outside of the bounds of the parish. And it
15 does not, under the terms of the statute. What's
16 more, the legislature has indicated, an ability to
17 establish multi-parish port commissions where it
18 deems that appropriate. So there are some port
19 commissions for example, Saint Charles, Saint James,
20 and Saint John Parish together form a single port
21 and harbor commission. And, the legislature has
22 done that where appropriate and might choose in the
23 future to do that. But as of today, it has not done
24 that. What has been the law for the fifty or sixty
25 odd years since this commission was established ah
26 1958, so I guess it's longer ago even than that,
27 longer than I want to admit. Ah, is that this
28 commission has been authorized to act within the
29 bounds of East Carroll Parish. The language of the
30 statute could not be more clear. Counsel suggests
31 that a, that a subsequent, that Section C somehow

1 trumps Section A. Section A says the Commission
2 shall exercise the powers herein conferred upon it,
3 within the port area, consisting of the entire
4 Parish of East Carroll as the boundaries limits of
5 said parish are presently fixed by law. Period.
6 Ah, part C tells you, you know, what those powers
7 are, but part A tells you what the boundaries are.
8 That's the extent of their jurisdiction and they're
9 simply not authorized by the Statute to go outside
10 of that jurisdiction. If there are any other
11 questions, Your Honor, I'd be happy to answer them.

12 THE COURT:

13 The only question I would pose to you, obviously
14 quo warranto is applicable. Explain to me how
15 Mandamus would be applicable?

16 MS. D'AQUIN:

17 Yeah, Your Honor, you know, we struggled with
18 that a little bit, honestly in preparing it. Ah
19 the, the quo warranto provision says that when the
20 Court finds that the writ should, writ should issue,
21 the Court shall require the corporations to seize
22 whatever improper

23 THE COURT:

24 Show by what

25 MS. D'AQUIN:

26 activities

27 THE COURT:

28 authority

29 MS. D'AQUIN:

30 its engaged in.

31 THE COURT:

1 is.

2 MS. D'AQUIN:

3 So the quo warranto would really cover it I
4 imagine.

5 THE COURT:

6 I think so.

7 MS. D'AQUIN:

8 The only thing that the mandamus would do would
9 specifically order them to un-ta, under take the
10 ministerial act of dismissing this proceeding in the
11 service transportation board. But,

12 THE COURT:

13 Well, if they have no authority then it's
14 automatic. In my

15 MS. D'AQUIN:

16 if they have no authority and if, if the order
17 on quo warranto orders them to seize the, seize
18 conducting the activity that they're not authorized
19 to conduct, that should be sufficient. And I
20 imagine then that if they fail to dismiss, then
21 maybe we could come back for the Mandamus for the
22 ministerial act.

23 THE COURT:

24 Yeah, Mandamus is troublesome because as you
25 know, if there's any slither discretionary involved,
26 it don't lie.

27 MS. D'AQUIN:

28 I under, I understand that.

29 THE COURT:

30 The Supreme Court is being quite clear about
31 that. Anyway, I appreciate the pre-hearing

1 submissions that both of you have made. Ah, that
2 certainly enable be to delve further into the matter
3 at hand. I tend to be studious by nature. And I
4 think we can all agree is there a case directly on
5 point, no. But we must delve in this matter and to
6 the law of statutory construction. And here's what
7 I would point out on that because it goes to the
8 heart of it in my view, as the Louisiana Supreme
9 Court indicated in Cent, C-E-N-T. period Properties
10 versus Fairway Garden Homes LLC, 16-1855, ages ten
11 and eleven, Louisiana, 627:17, 225 Southern 3rd 441
12 etq 448. When the application of a statutory
13 provision does not lead to absurd consequences, its
14 language must be given affect and the provision must
15 be construed, so as the give affect to the purpose
16 indicated by a fair interpretation of the language
17 used. And it goes without saying, of course, I'm
18 talking about Louisiana Revised Statute 1503, the A
19 part thereof which says, that the commission shall
20 exercise the powers herein conferred upon it, within
21 the port area, consisting of the entire parish of
22 East Carroll is the boundaries and limits of said
23 parish are presently fixed by law. In my view, this
24 statute is clear and unambiguous. Finding that the
25 statute is clear and unambiguous, then this Court
26 should apply the law as written and make no further
27 interpretation in search of the intent of the
28 legislature. Only when the law is not clear and it
29 is ambiguous, then you look to legislative intent.
30 But, I specifically find that this law and statute
31 is clear and unambiguous. And I would refer you to

1 look at the case of KC v Kacey (151269, page 9),
2 Lyefield's 4th Cir. (62916), 196 So.3rd 748 etq
3 753. Writ denied. 161410 Lye (112916), 210 So.3d
4 803, quoting Louisiana Civil Code Art. 9.
5 Therefore, you do not need to resort to the rules of
6 statutory construction because the statute is clear
7 and unambiguous. Therefore, no resort to
8 legislative intent is appropriate. That being said,
9 that's not the only statute that I think leads
10 credence to my views in this matter. I would also
11 point you, got it all out of order of course,
12 Louisiana Revised Statute 1501, which is the
13 creation of the Lake Providence Port Commission. I'm
14 only going to point out the A-part thereof: A,
15 there's hereby created a commission to be known as
16 the Lake Providence Port Commission, which shall be
17 composed of seven members who shall serve without
18 compensation and who shall be appointed as follows:
19 1) four commissioners appointed by the governing
20 authority of the parish of East Carroll; 2)
21 commissioners shall be appointed by the governing
22 authority of the town of Lake Providence; 3) one
23 commissioner shall be elected by the appointed
24 commissioners at their initial meeting. What's
25 going on here? Everybody's gone be from East Carroll
26 Parish. To me, it's no different than saying that
27 the Mayor of Tallulah has the right to tell the
28 Mayor of Lake Providence what to do. It's outside
29 their territorial jurisdiction. But I will go even
30 further. I don't think either of you mentioned
31 this, if you did I overlooked it. But you must also

1 look at the Constitution, specifically LSA
2 Constitutional Art. 6., Section 43. And it says in
3 part, Section 43, now we all know this is the
4 Constitution of 1974, which came after the enactment
5 of this statute of writ. Am I correct?

6 MS. D'AQUIN:

7 Correct.

8 THE COURT:

9 It says, all deep-water port commissions and all
10 deep-water port, harbor, and terminal districts as
11 organized and constituted on January 1, 1974,
12 including their powers and functions, structure and
13 organization, and territorial jurisdiction, are
14 ratified and confirmed and shall continue to exist,
15 except that. The 2-part thereof says, only by law
16 enacted by the favorable vote of two-thirds of the
17 elected members of each house, may the legislature
18 consolidate or abolish any such commission or
19 district or diminish, reduce, or withdraw from any
20 such commission or district any of its powers and
21 functions and affect the structure and organization,
22 distribution, and redistribution of the powers and
23 functions of any such commission or district,
24 including additions to or reduction of its
25 territorial jurisdiction. So, the constitution
26 itself, in 1974, would ratify the pre-existing
27 territorial jurisdiction of East Carroll Parish Port
28 Commission. You can't do it by cases. This is
29 constitutional. It ratifies and confirms what
30 existed. And no one has shown me nor have I seen
31 anything that has changed the territorial

1 jurisdiction of this port commission in question.
2 I think that's very important in my view and
3 confirms my belief that the Lake Providence Port
4 Commission is restricted territory to the entire
5 parish of East Carroll. And that is, in fact, the
6 boundaries and limit of said parish as fixed by law
7 and as confirmed and ratified by the Constitution
8 itself, in 1974. So, only the legislature by a two-
9 thirds favorable vote can change that territorial
10 jurisdiction. But I would point out something else
11 to let you know I did my homework. You didn't doubt
12 that anyway, did you?

13 MS. D'AQUIN:

14 I didn't. I was gonna go over it, you know, in
15 the old Constitution, this stuff was in the
16 Constitution, it wasn't just both statutes, so,

17 THE COURT:

18 I understand.

19 MS. D'AQUIN:

20 yeah.

21 THE COURT:

22 It, the, again there are no cases on point and
23 there is a case out of the Second Circuit. You all
24 will go to the Second Circuit, too, don't you, here?

25 MR. CRIGLER:

26 Yes, sir.

27 THE COURT:

28 And I'm not telling you it's on all fours, would
29 never do that, but I think it's worth noting. It is
30 called Caddo, Bossier Parishes Port Commission
31 versus Ark Chemicals Inc, 830 So.2d 498, Louisiana

1 Appeal Second Circuit. It is a 2002 case. It is
2 837 So.2^d 498., 2002. I will merely point out, 'cause
3 I'm certainly not suggesting that this, we're
4 dealing with municipalities here, at all. But some
5 of the language is interesting, I think, and worthy
6 of consideration here as well. Let me see, I don't
7 wanna read all of this. Ah here we go. In addition
8 under the explicit terms of Louisiana R.S. 3431:60,
9 obviously a different statute, the ports authority
10 to establish fees, rates, tariffs, and other charges
11 extends only within the port area and not extra
12 territorially. Ark's Chemicals, this private
13 property located outside of the port's property
14 area, conducting business separately from the port.
15 Moreover, under the terms of the port's written
16 agreement, the City of Shreveport agrees to provide
17 fire protection and emergency medical services only
18 to the port and its tenants and uses at the ports
19 complex. Clearly, Ark's Chemicals does not fall
20 under this categories. The important thing about
21 this case, again we're not dealing with
22 municipalities here, but this case does note not,
23 you can't do it extra territorially. And, I, it's
24 a Second Circuit case, I might add. So that leads
25 empathy if you will, to my belief that the statute
26 is clear and unambiguous as ratified by the
27 Constitution. The port in question, jurisdiction or
28 territorial limits is strictly limited to the parish
29 of East Carroll Parish. Now, this is dicta whether
30 the Madison and East Carroll can join together, I
31 don't know. That's not before me and I'm not

1 deciding it. That may be for another day, but as
2 far as East Carroll Parish Port Commission trying to
3 do what it's doing outside its territory limits, no
4 go. Writ granted. I will say, though, 'cause I
5 questioned earlier, quo warranto clearly applies in
6 this case because it is stated by Article 3901., quo
7 warranto is a writ directing an individual to show
8 by what authority he claims or holds public office,
9 or office in a corporation or limited liability
10 company, or directing a corporation or limited
11 liability company to show by what authority it
12 exercises certain powers. That's what we he have
13 here, show by what authority you exercise these
14 powers. Its purpose is to prevent usurpation of
15 office of office or of powers. So I clearly find
16 that quo warranto is applicable and I grants it
17 petition for quo warranto. Inasmuch as I have
18 doubts about mandamus, I will deny the mandamus
19 aspect thereof. Of course, the cost will be borne,
20 as far as legally possible, because I recognize the
21 Port Commission is a political subdivision. So
22 whether they're exempt from cost, I don't know.

23 MR. CRIGLER:

24 Yes, sir.

25 THE COURT:

26 But, as far as legally extendable, they should
27 bare the cost to this day, court cost that is. I
28 hope I've been clear.

29 MS. D'AQUIN:

30 Yes, Your Honor, you have. We did submit, I
31 believe with our original petition, we submitted

1 separate orders of quo warranto and mandamus. And,
2 then, with our brief we submitted a single order.
3 Ah, so I suspect that the ones with the original
4 petition,

5 THE COURT:

6 And that record is in East Carroll. Would you
7 have a copy with you?

8 MS. D'AQUIN:

9 I have a copy right here with the order.

10 THE COURT:

11 Good.

12 MS. D'AQUIN:

13 Let's see. And here, I'll hand it to Your
14 Honor. It reads, it is hereby ordered and adjudged
15 the Plaintiffs, Delta Southern Railroad in its
16 petition for writ of quo warranto be granted in the
17 above entitled matter, and the writ shall issue
18 directing that the Lake Providence Port Commission
19 cease its ultra vires actions and discontinue
20 pursuit of its feeder line application before the
21 Surface Transportation Board.

22 THE COURT:

23 Do you have any objection to the form?

24 MR. CRIGLER:

25 Be, being completely unfamiliar with the feeder
26 line application and the dismissal thereof, I,

27 THE COURT:

28 Well, they do have

29 MR. CRIGLER:

30 I,

31 THE COURT:

1 authority, obviously, to act within the parish
2 of East Carroll. So I'm not sure where the feeder
3 line is either. I mean, is some of it in East
4 Carroll?

5 MR. CRIGLER:

6 It is.

7 MS. D'AQUIN:

8 Some of it is, your, Your Honor. But the appli-
9 the amended application before the Surface
10 Transportation Board seeks to, seeks to force the
11 sale of the entire line, all the way down,

12 THE COURT:

13 Wait a minute, hold on.

14 COURT REPORTER:

15 Train.

16 THE COURT:

17 She can't hear you over there.

18 MS. D'AQUIN:

19 Right. I understand. That's probably our train
20 going by. I think that's a Delta Southern Railroad
21 train going by on our tracks. I'll have to tell our
22 client they should've shut the trains down while
23 we're having a hearing.

24 COURT REPORTER:

25 Good, Judge.

26 THE COURT:

27 Okay.

28 MS. D'AQUIN:

29 The, Your Honor, we did attach as an exhibit to
30 our ah, to our ah brief that we filed

31 THE COURT:

1 I know you did.

2 MS. D'AQUIN:

3 on Monday. The excerpts from the amended
4 application show that it is, that the port
5 commission is seeking property that comes down into
6 Madison Parish. Ah it's a, so it's a single
7 application as to pending.

8 THE COURT:

9 Let me look at the order you have. I'll actually
10 have a copy of that myself, too. That one had
11 mandamus in it too, as well.

12 MS. D'AQUIN:

13 Right. The one that I submitted with that
14 had the mandamus in the same order, but, when we
15 filed the petition, we filed two separate orders.

16 THE COURT:

17 Well, I tell you what, let me see something real
18 quick. Perhaps, let me see, I may can add to this
19 order to clarify just a tad, 'cause I don't want to
20 be construed they can't outbreak within the Parish
21 of East Carroll. Obviously.

22 MS. D'AQUIN:

23 Obviously. Yes, Your Honor.

24 THE COURT:

25 And that's what I need to avoid if possible. Let
26 me see. Well, what we, what I can do is write in
27 the, the meat of it. Considering the foregoing
28 petition for writ of quo warranto, it is hereby
29 ordered and adjudged that plaintiff, Delta Southern
30 Railroad Inc.'s, petition for writ of quo warranto
31 be granted in the above entitled matter and the, and

1 that the writ shall issue direct and at the Lake
2 Providence Port Commission seek its ultra vires
3 actions, and discontinue pursuit of its feeder line
4 application that exist outside the parish of East
5 Carroll. That satisfy you?

6 MR. CRIGLER:

7 Well, I, I mean obviously they would, I'm
8 assuming need to amend it again, it, it, if it, I
9 mean it's, I imagine they'll appeal this, but that,
10 I mean, I'm thinking of the amendment to, and I
11 don't, again, I don't know how the application
12 process there works, but for them to cease the
13 application if they have pending when, I guess at
14 least partially in, in this Court's opinion it is
15 authorized to do. I,

16 THE COURT:

17 Well, that's why I said. You didn't, you
18 didn't, did you catch where I just

19 MR. CRIGLER:

20 I didn't,

21 THE COURT:

22 said?

23 MR. CRIGLER:

24 no, sir, apparently not.

25 THE COURT:

26 Okay.

27 MS. D'AQUIN:

28 I think it's, if I understand correctly, the
29 Court's talking about adding to the extent that the
30 application extends beyond East Carroll Parish.

31 MR. CRIGLER:

1 Okay.

2 MS. D'AQUIN:

3 And I, and I know that, the procedural posture

4 of it in front of the Service Transportation Board,

5 I don't know whether there's an opp, continuing

6 opportunity that amend or whether procedurally it's

7 passed that point and it needs to be dismissed and

8 re-filed, I don't know. Your Honor, so I can't

9 really speak to that today. But I understand the

10 Court's concern about not issuing something that

11 says they can't ever pursue a feeder line, line

12 application it's just this one as it exists right

13 now that extends beyond

14 THE COURT:

15 No, because

16 MS. D'AQUIN:

17 East Carroll

18 THE COURT:

19 you

20 MS. D'AQUIN:

21 Parish.

22 THE COURT:

23 agree that they can operate within

24 MS. D'AQUIN:

25 They,

26 THE COURT:

27 the confines

28 MS. D'AQUIN:

29 they can

30 THE COURT:

31 of East Carroll

1 MS. D'AQUIN:

2 attempt to do it

3 THE COURT:

4 Parish.

5 MS. D'AQUIN:

6 within East Carroll Parish.

7 THE COURT:

8 This order may need to be redrafted and
9 submitted. Let him look at it. I don't wanna hand-
10 string him today.

11 MS. D'AQUIN:

12 Your, Your Honor, are, we're happy to submit
13 something. We'll just, we'll email it tomorrow if
14 that's okay with Your Honor. We do have a three

15 THE COURT:

16 Sure.

17 MS. D'AQUIN:

18 and a half hour drive home, so probably won't
19 get a email today.

20 THE COURT:

21 Oh, that's perfectly fine. Do that and let him,

22 MR. CRIGLER:

23 I'd appreciate that.

24 THE COURT:

25 oh, absolutely. I mean, the fact that I was
26 able to render a judgment today is a good thing.

27 MR. CRIGLER:

28 Yes, sir.

29 THE COURT:

30 You know, now with days of email, this, this
31 kind of thing can be taken care of pretty fast.

1 MR. CRIGLER:
2 Yes, sir.
3 MS. D'AQUIN:
4 Yeah.
5 THE COURT:
6 I actually have learned to E-sign, but I don't
7 like it. But I don't know that they do that in East
8 Carroll, I'm not sure.
9 MR. CRIGLER:
10 I doubt it.
11 MS. D'AQUIN:
12 I doubt
13 THE COURT:
14 But do,
15 MS. D'AQUIN:
16 that.
17 THE COURT:
18 but do that,
19 MS. D'AQUIN:
20 I don't think there's any facts, well there's
21 facts on. I don't think there's any e-filing or any
22 of those things up here quite yet. I'm sure they're
23 coming soon though.
24 MR. CRIGLER:
25 Hope not.
26 THE COURT:
27 Yeah, would you pass that?
28 MS. D'AQUIN:
29 Oh, once you, once you learn how to do it, life
30 is much easier.
31 MR. CRIGLER:

1 Yeah, I did

2 MS. D'AQUIN:

3 Believe me.

4 MS. CRIGLER:

5 plenty in Federal Court. I'm still,

6 THE COURT:

7 And as long as I know it's approved as to form,

8 I don't actually have to see the signature on there,

9 as long as officers of the court, you tell me

10 MR. CRIGLER:

11 Yes, sir.

12 THE COURT:

13 it's reviewed and, and has no objection, typed

14 stuff, I'm good.

15 MR. CRIGLER:

16 Yes, sir.

17 THE COURT:

18 But, y'all do it anyway you want to. I just

19 want him to have time to look it over.

20 MS. D'AQUIN:

21 All right.

22 THE COURT:

23 Out of all fairness.

24 MR. CRIGLER:

25 Yeah, I, I just need the folks that are handling

26 the, the application process that know the deadlines

27 that, that she spoke of to, I just have no clue.

28 THE COURT:

29 This is why I made every effort to get y'all in

30 fast and to make a

31 MR. CRIGLER:

1 Yes,

2 THE COURT:

3 ruling,

4 MR. CRIGLER:

5 sir.

6 THE COURT:

7 so you will know what to do.

8 MR. CRIGLER:

9 Yes, sir.

10 THE COURT:

11 I really did. I'll, I, I'm sorry for the delay

12 that, because of recusal process stuff, but, you

13 know, that's beyond my control.

14 MS. D'AQUIN:

15 Oh, I, our, we understand, Judge. We understand

16 completely. We, when we got the first recusal, we

17 sort of took bets around the office and said every

18 judge up there is gonna recuse because it's just

19 such a small area, everybody's gonna have somebody

20 who's related to somebody on that commission. We

21 understand.

22 THE COURT:

23 Well, I live 90.7 miles from here, so.

24 MS. D'AQUIN:

25 Okay.

26 MR CRIGLER:

27 Your Honor, if I may, I just wanted to say thank

28 you for, for taking the task on to sit Ad Hoc for

29 us. And thank the staff, for this is probably not

30 a normal rule day for them, so we appreciate them

31 coming in.

1 THE COURT:
2 As well as I do. And I know it was more
3 convenient for all of us to do it here.
4 MR. CRIGLER:
5 Yes, sir.
6 THE COURT:
7 So is there anything else?
8 MS. D'AQUIN:
9 No, Your Honor. Thank you. I hope that you
10 appreciated the intellectual challenge of plowing
11 through the Constitution.
12 THE COURT:
13 God-lee.
14 MS. D'AQUIN:
15 I bet you did.
16 THE COURT:
17 I mean,
18 MS. D'AQUIN:
19 I kind of think you did.
20 THE COURT:
21 By the way, Mr. Crigler, you're from Tensas,
22 right?
23 MR. CRIGLER:
24 I am, yes sir.
25 THE COURT:
26 You, Judge Crigler's your dad?
27 MR. CRIGLER:
28 He is.
29 THE COURT:
30 Okay.
31 MR. CRIGLER:

1 Yes, sir.

2 THE COURT:

3 My wife actually is from Madison Parish, many

4 decades ago.

5 MR. CRIGLER:

6 Okay. Well, that's good.

7 THE COURT:

8 She was a Webb.

9 MR. CRIGLER:

10 Okay.

11 THE COURT:

12 Plantation.

13 MR. CRIGLER:

14 Yes, sir. Absolutely.

15 THE COURT:

16 You ever heard of that one?

17 MR. CRIGLER:

18 Yeah. Ah, ah yeah, it's small world.

19 THE COURT:

20 It is a small world.

21 MR. HAYES:

22 Thank you, Your Honor.

23 THE COURT:

24 It's nice to meet all of you.

25 MR. CRIGLER:

26 Yes, sir.

27 THE COURT:

28 And don't take this today if, if something comes

29 up in the future that I won't allow you to submit on

30 briefs and that sort of thing. I felt like if we

31 were together like this, I could do it faster.

1 Again, 'cause I was an English major and when I
2 write I'm, it, it can be painful sometimes.

3 MR. CRIGLER:

4 Yes, sir.

5 THE COURT:

6 You got a quicker decision

7 MR. HAYES:

8 Judge,

9 MR. CRIGLER:

10 Yes.

11 THE COURT:

12 this way.

13 MR. HAYES:

14 Judge, if have it, Judge, if you're looking for
15 work, we may need to hire you as a, as a, as an
16 associate. We have, the writing skills in this
17 generation are not what they used to be.

18 THE COURT:

19 And till go back practicing law. I been on the
20 bench since 1985.

21 MS. D'AQUIN:

22 Wow.

23 MR. CRIGLER:

24 Oh, wow.

25 THE COURT:

26 That's a lot.

27 MS. D'AQUIN:

28 That's a lot.

29 THE COURT:

30 Some people have trouble believing that I'm 74
31 years-old.

1 MADAM CLERK:
2 All rise.
3 THE COURT:
4 Y'all have a good day.
5 MR. CRIGLER:
6 You too,
7 MR. HAYES:
8 Thanks again,
9 MR. CRIGLER:
10 thank you.
11 MR. HAYES:
12 Judge.
13 MS. D'AQUIN:
14 Thank you, Your Honor.

15
16
17
18
19
20
21
22
23
24
25
26 **(End of Proceedings)**
27
28
29
30
31

C E R T I F I C A T E

STATE OF LOUISIANA


PARISH OF MADISON

I, Mary Alice Lee, Certified Digital Reporter in and for the Sixth Judicial District Court, State of Louisiana, do hereby certify that the foregoing pages comprise a true and correct transcription of the testimony given and proceedings had in the above-numbered cause to the best of my ability and understanding.

That this proceeding was an East Carroll Parish case heard in the parish of Madison courthouse in Tallulah, Louisiana, on the 23rd day of May, 2024.

That I am not an attorney or counsel of the parties; nor am I related to them or financially interested in this action or its outcome.

Dated this 27th day of June, 2024, in the city of Tallulah, Louisiana.


MARY ALICE LEE
Certified Digital Reporter
#3952010