

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

ARKANSAS STATE HIGHWAY COMMISSION

PLAINTIFF

v.

Case No. 09-6033

ARKANSAS MIDLAND RAILROAD CO., INC.;  
MISSOURI PACIFIC RAILROAD COMPANY n/k/a  
UNION PACIFIC RAILROAD COMPANY; 0.45 ACRE,  
more or less of certain land in Hot Springs  
County, Arkansas; and ANY PERSONS OR ENTITIES  
CLAIMING ANY INTEREST THEREIN

DEFENDANTS

**O R D E R**

Now on this 16th day of June 2009, there comes on for consideration the report and recommendation filed herein on May 26, 2009 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 18). No objections were filed to the report and recommendation.

The Court has reviewed this case and, being well and sufficiently advised, finds as follows: the report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, Defendant Arkansas Midland Railroad Co., Inc.'s Motion to Dismiss (Doc. 6) is **DENIED** as moot, without prejudice to filing such other dispositive motion pursuant Federal Rule of Civil Procedure 12 or other authority, as is appropriate.

IT IS SO ORDERED.

/s/ Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge