



Surface Transportation Board
Washington, D.C. 20423-0001

EP 770
FD 36609

305107

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Office of Proceedings
August 4, 2022
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August 4, 2022

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The Honorable Charles Fleischmann
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The Honorable James R. Baird
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The Honorable Kat Cammack
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The Honorable John Rose
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The Honorable Jimmy Panetta
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The Honorable Robert E. Latta
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The Honorable Bob Gibbs
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The Honorable Jefferson Van Drew
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The Honorable Daniel T. Kildee
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The Honorable Ro Khanna
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The Honorable John R. Moolenaar
117 Cannon House Office Building
Washington, DC 20515

The Honorable David Kustoff
560 Cannon House Office Building
Washington, DC 20515

The Honorable Al Lawson
2437 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom O'Halleran
318 Cannon House Office Building
Washington, DC 20515

The Honorable Andrew S. Clyde
521 Cannon House Office Building
Washington, DC 20515

The Honorable Michael Cloud
512 Cannon House Office Building
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The Honorable Angie Craig
2442 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Costa, Norman, Miller, Fleischmann, Baird, Cammack, Steube, Grothman, Rose, Scott, Kelly, Allen, Newhouse, Green, Gohmert, Lucas, Mann, Hartzler, Thompson, Panetta, Higgins, Rouzer, Donalds, Burchett, LaHood, Harder, Carbajal, Axne, Schrier, Valadao, Feenstra, Letlow, Bishop, McClain, Miller-Meeks, Latta, Meuser, Gibbs, Rodgers, Van Drew, Hinson, Kildee, Davids, Khanna, Moolenaar, Kustoff, Lawson, O'Halleran, Clyde, Cloud, and Craig:

Thank you for your recent letter regarding the critical freight rail service problems affecting the timely shipment of fertilizer and other agricultural commodities, including grain and livestock feed. We share your concerns about the risks inconsistent and unreliable rail service poses to food security, and to the agricultural industries and workforces that depend upon reliable freight rail service.

As you may be aware, on April 22, 2022, the Board issued a proposed rule to improve its process to provide relief in times of emergency and to ease the burden on rail users seeking such relief in Revisions to Regulations for Expedited Relief for Service Emergencies, Docket No. EP 762. The comment period for that proceeding closed on June 6, 2022, and we expect the Board will take further action on the proposed rule in short order. The Board also held a public hearing addressing rail service problems on April 26 and 27, 2022 in Urgent Issues in Freight Rail Service, Docket No. EP 770. During the hearing, the Board heard extensive testimony on severe rail service issues reported by a wide range of witnesses including agricultural, energy, and other commodity shippers, as well as government officials, rail labor, and rail experts.

Following the hearing, on May 6, 2022, the Board issued a decision requiring all Class I railroads to submit specific information on rail service, performance, and employment in Docket No. EP 770. The Board required BNSF, CSX, NS, and UP to submit service recovery plans, progress reports, and historical data, and to participate in biweekly conference calls with Board staff. These measures are meant to inform the Board's assessment of further actions that may be warranted to address the acute service issues facing the rail industry and to promote industry-wide transparency, accountability, and improvements in rail service.

The service recovery plans submitted by the railroads in response to this order were insufficient to assist the Board, rail customers, and the broader public in evaluating the sufficiency of the

railroads' actions to seriously confront their service problems, and the plans lacked the level of detail expected of sophisticated companies with important public responsibilities. As a result, on June 13, 2022, the Board ordered BNSF, CSX, NS, and UP to submit corrected service recovery plans with specific instructions to provide additional information on their actions to improve service and communications with their customers, as well as additional detailed information to demonstrate their progress toward meeting their labor force targets and providing reliable rail service.

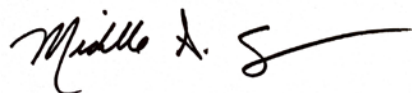
Since March, the Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) has undertaken many efforts to get trains to agricultural customers. On June 15, 2022, Foster Poultry Farms (Foster Farms), a chicken grower and processor, filed a petition for an emergency service order with the Board under 49 U.S.C. § 11123 in Foster Poultry Farms—Ex Parte Petition for Emergency Service Order, Docket No. FD 36609. The petition requested that the Board immediately direct UP to give preference and priority to the movement of unit trains of corn tendered to UP by or on behalf of Foster Farms from origins in the midwestern United States to Foster Farms' facilities in Traver and Turlock, California. On June 17, 2022, the Board ruled on the petition, ordering UP to deliver certain trains of corn to these facilities while at the same time reminding Union Pacific of its common carrier obligation to its customers throughout its network. On July 1, 2022, the Board directed UP to continue to carry out specific service commitments to Foster Farms, file daily status reports to the Board, hold weekly conferences with Board staff, and to inform the Board and Foster Farms in writing of any need to deviate from the planned service schedules. These orders helped alleviate harm to Foster Farms and the poultry, dairy, and feed yard livestock that depend on the distribution of corn meal supplied by Foster Farms, by replenishing feed stock supplies and improving cycle times. Because the emergency no longer existed, on July 20, 2022, the Board denied the request of Foster Farms to extend the emergency service order beyond the initial 30-day period, but left the docket open for six months in the event that further action is necessary.

The Board will continue to closely monitor UP's rail service and the progress made by the railroads, and is prepared to take further action, as necessary. A copy of your letter and this response has been placed in the public docket in EP 770 and FD 36609. If you or your staff have any questions, please contact Ms. Janie Sheng, Acting Director of OPAGAC, at 202-245-0238.

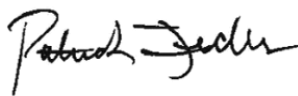
Sincerely,



Martin J. Oberman
Chairman



Michelle A. Schultz
Vice Chairman



Patrick J. Fuchs
Member



Robert E. Primus
Member



Karen J. Hedlund
Member