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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36609

FOSTER POULTRY FARMS—*EX PARTE* PETITION
FOR EMERGENCY SERVICE ORDER

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UNION PACIFIC RAILROAD COMPANY'S REPLY

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UNION PACIFIC RAILROAD COMPANY'S REPLY

The Board should deny or hold in abeyance Foster Poultry Farms' petition for an emergency service order. As is explained in the accompanying verified statement of Bradley S. Moore, UP's Vice President of Customer Care and Support, UP currently has four loaded trains destined to Foster Farms' facilities in Traver and Turlock, California, and one destined to Foster Farms' facility in Delhi, California. UP is projecting that the trains will all arrive over the period between December 31 and January 3. Foster Farms recently acquired use of a sixth trainset, which is currently in Louisiana, and which will move for loading in Nebraska. UP understands delivery of these six trains will resolve Foster Farm's immediate issue. The Board should at least monitor UP's efforts to deliver the trains before deciding whether to impose a service order.¹

As Mr. Moore explains, Foster Farms' situation is largely the result of severe winter weather that affected UP operations beginning in mid-December. UP issued an announcement on December 14, 2022, notifying its customers that a winter storm was impacting operations between North Platte, Nebraska, and Cheyenne, Wyoming, and

¹ UP would not object to keeping this docket open beyond January 20, 2023. *See Foster Poultry Farms—Ex Parte Petition for Emergency Service Order*, FD 36609 (STB served July 20, 2022).

delaying shipments moving through the area, which included Foster Farms shipments.² UP issued a second weather-related announcement on December 19, ahead of Winter Storm Elliott. UP warned of potential disruptions to rail service across the Midwest as a result of extreme cold and snowfall.³ UP issued a third announcement on December 23, notifying customers that extreme winter weather was continuing to impact significant portions of the network, causing extended delays on shipments.⁴ UP issued a fourth announcement on December 27, notifying customers that extreme winter weather was continuing to impact service.⁵ The extreme weather conditions required UP to close certain lines for periods of time and caused locomotive failures.

UP has remained highly focused on providing consistent, reliable service to Foster Farms. As Mr. Moore explains, in October and November of 2022, UP delivered a total of 20 loaded trains using four trainsets dedicated to Foster Farms—or an average of 2.5 turns per train per month. However, going into the month of December, Foster Farms had acquired only two dedicated trainsets in the open market. The trainsets were loaded on December 2 and December 5. Foster Farms also acquired the one-time use of two trainsets from other shippers. Those trainsets were also loaded on December 2 and

² <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2022-73.html>

³ <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2022-75.html>

⁴ <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2022-76.html>

⁵ <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2022-77.html>

December 5. This loading pattern created an empty trainset gap, which was then exacerbated by winter weather conditions, leading to Foster Farms' current position.

As Mr. Moore explains, after the four trains were loaded on December 2 and December 5, Foster Farms had no empty trainsets available for loading until December 14, when an additional trainset it acquired for one-time use was loaded.

Foster Farms' two trainsets arrived at Traver and Turlock on December 10 and December 12, respectively.⁶ They departed empty on December 12 and December 14, respectively. Foster Farms' Traver trainset arrived for loading in Savage, Minnesota, on December 19. Foster Farms released the Turlock trainset to another shipper as part of a trainset swap. The trainset Foster Farms received in return was to be loaded in Grand Island, Nebraska.

Also in mid-December, Foster Farms contracted with other shippers for the one-time use of three additional trainsets. However, as Mr. Moore explains, those trainsets were not available for immediate loading: one was still loaded and in transit in Arizona; the other two were empty but in Mexico. The trainsets from Mexico arrived for loading, one in Pickering, Iowa, the other in Alton, Iowa, on December 21. The Arizona trainset was delayed by weather and did not arrive for loading in Albert City, Iowa, until December 28.

As Mr. Moore explains, UP currently has five loaded trainsets destined for Foster Farms' facilities. The Foster Farms trainset loaded in Savage was released on December

⁶ With regard to the one-time use trainsets, one arrived at Traver on December 8, the other arrived at Delhi on December 11. At that point, both trainsets were moved for loading for other customers.

The trainset loaded on December 14 was delivered to Traver on December 22. At that point, it was moved for loading for another customer.

20 and departed for Traver on December 21. It has been delayed and rerouted because of winter weather, and it was further delayed by a locomotive failure caused by winter weather, but is expected to arrive January 1, 2023. The Foster Farms trainset loaded in Grand Island was released on December 26, and it was held to wait for power from an inbound train. It is expected to depart for Delhi on December 30 and arrive on January 3. The trainset loaded in Pickering was released and departed on December 21, destined for Turlock. It has been delayed because of crew issues and a locomotive failure caused by winter weather, but is expected to arrive on December 31. The trainset loaded in Alton was released on December 21, destined to Kearney. It has been delayed by locomotive failures caused by winter weather, but departed on December 29 and is expected to arrive on January 2. Finally, the trainset loaded at Albert City was released on December 28. It is expected to depart for Turlock on December 30 and arrive on January 2. UP is taking all reasonable steps to ensure that power and crews are available for all five trains.

UP understands Foster Farms' desire for an emergency service order, but it urges the Board not to issue such an order at this time. Foster Farms' current crisis is largely the result of extreme winter weather that has affected many rail shippers, and UP is already taking all reasonable measures to alleviate that crisis.

Respectfully submitted,

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December 30, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of December, 2022, I caused a copy of the foregoing document to be served by email on all parties of record in STB Docket No. FD 36609.

/s/ Michael L. Rosenthal

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36609

**FOSTER POULTRY FARMS – *EX PARTE* PETITION
FOR EMERGENCY SERVICE ORDER**

**VERIFIED STATEMENT OF
BRADLEY S. MOORE**

My name is Bradley S. Moore. I am the Vice President of Customer Care and Support for Union Pacific Railroad Company, a position I have held since August of 2018. I began my career with Union Pacific in 1995 and have held management positions in Union Pacific’s Marketing and Sales Department. Before I was promoted to my current position, I served as Assistant Vice President of Customer Care and Support.

I am submitting this statement to describe the service status of the Foster Farms trains.

Foster Farms’ Service

In October and November of 2022, Foster Farms operated with four contracted trainsets. UP delivered a total of 20 loaded trains using the four trainsets dedicated to Foster Farms—an average of 2.5 turns per train per month. In December, Foster Farms operated with only two contracted sets (**FR11 and FR12**). In early December, Foster Farms also contracted with Bartlett and Cargill for three additional loadings using one of Bartlett’s trainsets (**BR10**) and two of Cargill’s trainsets (**CG41 and CG42**). FR11 loaded 12/2, arrived at Traver 12/10, cycled back empty 12/12, arrived in Savage, Minnesota, for reloading 12/19, was released 12/20, and departed 12/21, but was delayed due weather related routing and power issues; **FR12** loaded 12/5, arrived at Turlock 12/12, was released as part of a swap with another shipper, then was

loaded again and released from Grand Island, Nebraska 12/26 and departed for Foster Farm's facility in Delhi, California, 12/29. The additional contracted trainsets for the first half of December were each for one cycle then returned to their owners (**BR10** loaded 12/2 and arrived at Traver 12/8; **CG41** loaded 12/5 and arrived at Delhi, on 12/11; **CG42** loaded 12/14 and arrived at Traver 12/22).

Between December 6th and December 14th there were no other empty sets for Foster Farms that arrived for loading. On December 14th Union Pacific was notified there were three additional sets contracted to load for Foster Farms. Those trainsets moved as follows:

- **AG04** was loaded in Arizona headed to its original destination. It released empty from Arizona on 12/19. It was delayed in Jefferson, IA, on 12/23. The empty cycle was delayed for extreme weather and arrived on 12/28 for loading in Albert City, IA. It was released on 12/28 loaded to Traver and is scheduled for departure on 12/30.
- **BR04** was empty returning from Mexico. It arrived in Alton, IA, for loading and was released for Turlock on 12/21, but was delayed waiting for power due to weather effects. It departed on 12/29.
- **HS74** was empty returning from Mexico. It arrived in Pickering, IA, for loading and was released for Turlock on 12/21 and departed the same day but was delayed en route in Utah due to crew and weather issues. It has been diverted to Turlock and is now in Nevada.

Winter storm conditions impacted parts of our network between North Platte, Nebraska, and Cheyenne, Wyoming, around December 14, 2022. An even broader swath of our network was impacted by extreme cold temperatures and blizzard condition beginning on December 21st. Temperatures on December 22nd and 23rd were as much as 20 to 40 degrees below normal causing a significant increase in broken rail and locomotive failure variability events. The extreme conditions were experienced across 20 of the 23 states where we operate, with the largest impact extending from Idaho and Wyoming throughout the central states that Foster Farms' trains traverse.

Current Status of the Network

Extreme cold temperatures and blizzard conditions impacted a broad swath of the Eastern portion of our network beginning on December 21st. Prior to this major weather event (Winter Storm Elliot), we had already endured a significant winter storm with 80-90 mph wind gusts over parts of our network (primarily Wyoming and western Nebraska). The PNW portion of our network also battled through an ice storm during the holidays. The extreme weather events led to an increase in broken rails, signal issues, locomotive failures, air problems and impassable tracks due to snow drifts – completely shutting down some portions of our network. In addition, this coincided with crew availability being impacted through the holidays. As a result, immediately following Christmas the number of trains held across our system was significantly higher than you would typically expect over the Christmas holiday.

Over the past couple of days weather conditions have improved – with increasing temperatures and a reduction in snowstorms. We've now cleared, repaired, and opened all impacted subdivisions and have been re-starting trains stopped enroute. Union Pacific is currently deploying additional locomotives to expedite our ability to return the network back to a normalized state. However, we are still struggling with locomotive engines stalling, based on impacts from the extreme weather. With the backlog of trains enroute and released but not departed, departure times are elongated for trains that are released at origin.

We are generally working to launch the oldest released trains first (with some exceptions based on operational needs and critical commodities).

Expected Service and Potential Challenges

The current ETAs for the five trains enroute are:

- HS74 - 12/31
- FR11 - 1/1

- AG04 - 1/2
- BR04 - 1/2
- FR12 - 1/3

We are experiencing challenges that are affecting many of our customers, so our focus is recovering the network as quickly as possible. We continue to work through backlog of trains that were impacted by weather while also preparing for additional weather events. We are also preparing for another significant winter storm, a mixture of heavy rain and heavy snow, which is forecasted to hit the Sierra Nevada mountains in the coming days. The ETAs for AG04, BR04, and FR12 could be impacted by this storm. Resources are being repositioned in the event they are needed to manage through this weather event, and we will continue to focus on meeting the critical needs of our customers.

VERIFICATION

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge, belief, and information. Further, I certify that I am qualified and authorized to file this statement.

Executed on December 29, 2022.

A handwritten signature in black ink that reads "Brad Moore". The signature is written in a cursive style with a large, prominent "M".

Bradley S. Moore