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EXPEDITED CONSIDERATION REQUESTED
BY JUNE 17, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36609

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

***EX PARTE* PETITION FOR EMERGENCY SERVICE ORDER**

Foster Poultry Farms (“Foster Farms”), with headquarters in Livingston, California, hereby requests the Surface Transportation Board (“Board” or “STB”) to issue by June 17, 2022, on an *ex parte* basis, an emergency service order pursuant to 49 C.F.R. §1117.1 and the authority granted to the Board by 49 U.S.C. §11123(b)(1) to “act on application¹ without regard to subchapter II of chapter 5 of title 5.” As set forth in greater detail below, continuing service failures by the Union Pacific Railroad Company (“UP”) over the past five months have clearly established that UP, utilizing its current operating practices, cannot transport the rail “traffic offered to it [by Foster Farms] in a manner that properly serves the public,”² meaning (1) Foster

¹ While §11123(b)(1) refers to an “application” the Board has more recently referred to “petitions” for emergency service orders pursuant to §11123(b)(1) and so that term is used here. See EP 762, *Revisions to Regulations for Expedited Relief in Service Emergencies* (served April 22, 2022) at 3 (“The Board may act on its own initiative or pursuant to a petition, and emergency service may be ordered summarily (i.e., without regard to the Administrative Procedure Act)” *Id.* § 11123(b)(1)).

² §11123(a).

Farms, (2) the growers of the millions of animals to whom Foster Farms supplies feed made from corn delivered by UP in unit trains, and (3) the public at large that depends on the affected livestock for food.

As explained below, the emergency service order requested by this *Ex Parte* Petition is necessary to counter a substantial, measurable deterioration of rail service to Foster Farms' facilities located in Traver and Turlock, California by UP. These service failures, which began in February 2022, have resulted in numerous instances where Foster Farms has suspended its production and distribution of feed for tens of thousands of dairy cattle and tens of millions of chickens and turkeys which consume corn meal supplied by Foster Farms. It has also resulted in Foster Farms incurring considerable costs in an increasingly desperate and futile attempt to try to find alternative means and transportation modes to obtain and ship the huge quantities corn its facilities must have each week that UP delivered in the past with reasonable regularity but has demonstrated, without any doubt, that it can no longer do so for the indefinite future under its current operating plans and priorities.

Consequently, ample evidence exists for the Board to immediately issue an emergency order, pursuant to §11123(b)(1), §11123(a)(1) and (4)(A), directing UP, for a period of at least thirty (30) days, to direct the handling, routing and movement of Foster Farms' units trains over UP's system, and 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. This drastic action is necessary on an emergency basis to alleviate the severe harm to poultry, dairy and feed yard livestock, the harm to the livelihoods of the ranchers and growers who own them, and the extensive harm to Foster Farms' business that is being caused by UP's persistent service failures. In further support of

this *Ex Parte* Petition Foster Farms provides the facts and argument below. The factual assertions made in this filing are verified by Mr. Phil Greene, Vice President of Foster Farms (see attached Verification).

**I.
STATEMENT OF RELEVANT FACTS**

A. Description of Foster Farms and its Facilities that are the Subject of this *Ex Parte* Petition

Foster Farms is the largest chicken grower and processor in the Western United States with over 12,000 employees. It processes for food consumption approximately 1,000,000 chickens and 12,000 turkeys in California every day. The Foster Farms' facilities at issue in this Petition are located in Traver and Turlock, California. Both are located on lines of railroad owned and operated by UP, as shown on the Map attached as Exhibit A to this *Ex Parte* Petition (approximate locations shown). Corn is the only commodity at issue in this emergency service order request. In normal times, it is delivered to Foster Farms' facilities by UP in 100-car unit trains of hopper cars, where it is processed into corn meal for feed. In addition to requiring corn to feed its own chickens and turkeys, Foster Farms is the supplier of corn to several nearby poultry producers.

California is the largest dairy state in the United States, and the corn Foster Farms purchases and ships on UP is also processed into corn flakes for around 500 cattle feed facilities located primarily in central California's San Joaquin Valley. The industry in California consists of about 3.7 million dairy and 1.5 million beef cattle, most of which depend upon corn as a critical feed ingredient.

Foster Farms does not own the four unit trains used by UP to fulfill Foster Farms' volume requirements at Traver and Turlock. Rather, beginning in December 2020 Foster Farms has leased the four trains from UP pursuant to its Grain Shuttle Program set forth in UP Tariff 4051. While

the unit trains are owned by UP, they are dedicated to Foster Farms' service. Each unit train holds approximately 12,000 tons of corn (120 tons per hopper car). The corn is typically originated at loading sites in the Nation's corn belt from Nebraska to Minnesota. The shipments have been governed by the rates and service terms set out in UP's tariffs and circulars and terms in ancillary agreements between UP governing Foster Farms' use of the trains and rebates that are not relevant to the issues in this Petition.³

The chickens, turkeys, and dairy cattle are fed from the Traver and Turlock facilities, plus its nearby mill at Delhi, California where Foster Farms is completing a project at significant cost to increase its inventory and receiving capacity in California. These facilities consume a minimum about a million bushels of corn each week combined and have done so for more than 40 years. The immense quantities of corn required at the Traver and Turlock facilities cannot feasibly be delivered by truck, either economically or operationally, and the facilities are captive to UP for rail service. This minimum (and inflexible) weekly consumption level mandates the delivery of a *minimum* of nine loaded unit trains per month (2.25 trains per week) divided between the two facilities, in addition to reasonable cushion of feed corn onsite to buffer typical rail service inconsistencies. Moreover, these train deliveries must be relatively ratable to maintain somewhat consistent quantities of feed at each facility over a given month.

³ Like many agricultural shippers Foster Farms' transportation service from UP is provided primarily pursuant to common carrier tariffs, which are supplemented by ancillary private agreements addressing non transportation issues. Such transportation is not considered contract transportation subject to 49 U.S.C. § 10709, but this is issue not relevant for purposes of the Board's jurisdiction to entertain this *Ex Parte* Petition. See Docket No. EP No. 628, *Expedited Relief for Service Inadequacies* (served December 21, 1998) at 10 (" . . . where no service is being provided, we do not believe the mere existence of a contract precludes us from providing for temporary service, upon a proper showing"), citing *Joint Petition for Service Order*, STB Service Order No. 1518 (October 31, 1997), *et al.*

Receipt of an average of 2.25 trains, and as many as four trains per week at the Traver, Turlock, and soon to be opened (later this month) Delhi facilities is therefore critical to the well-being and survival of the livestock. The failure to feed chickens and turkeys adequate amounts of food creates an environment where they not only rapidly physically deteriorate from malnutrition, they also have the propensity to kill each other if they have been cut off from a food source. As for dairy cattle, the lack of food at a minimum adversely affects their ability to produce milk and to breed that cannot be resolved until the next calving cycle, and the extended lack of food can obviously eventually lead to death.

Over the past two and a half months Foster Farms has engaged in an intense, almost daily three-way dialogue with UP and the Deputy Director of the STB's Office of Public Assistance, Governmental Affairs and Compliance ("OPAGAC") to cajole and plead with UP to make unit train deliveries of corn to the Traver and Turlock facilities.⁴ Foster Farms has also engaged in many efforts to find alternative sources of corn delivered by different modes to stave off the starvation of the livestock and to supply its customers. It has spent over \$1,500,000 securing corn from trucking companies and purchasing unit trains of corn destined to other locations which are either delivered by UP or delivered by BNSF Railway ("BNSF") to locations on its tracks and the corn is transloaded and trucked to Foster Farms' facilities. Foster Farms even approached BNSF to obtain a commitment to provide alternative service to the Turlock and Travers facilities via BNSF's interchanges with UP at Fresno and Stockton, California.⁵ However, BNSF declined to make such a commitment, citing operational and other hurdles that BNSF considered to be

⁴ Examples of relevant E-mail correspondence are attached as Exhibit B to this *Ex Parte* Petition. Pursuant to STB policy the over two dozen emails between Foster Farms and the Deputy Director of OPAGAC between March 31, 2022 to date, in which the Deputy Director reported on his discussions with UP about its service failures at Foster Farms' request, have been excluded.

⁵ 49 C.F.R. Part 1146.

insurmountable.

This *Ex Parte* Petition is being filed at this time because, despite all of the efforts made by Foster Farms, the OPAGAC's Deputy Director, and even UP, UP's current operating plans and priorities simply cannot provide the service required at the Traver and Turlock facilities, and Foster Farms has run out of options for substituting the corn that should be delivered by UP by railroad with corn delivered by trucks. The point has been reached when millions of chickens will be killed and other livestock will suffer because of UP's service failures. The Board must direct UP to immediately change its current operations and priorities to place more emphasis on fulfilling its commitments and public duty as a common carrier to provide service to the Turlock and Traver facilities.

II. ARGUMENT

A. The Board Has Authority to Grant this Request

Section 11123 gives the Board broad authority to take immediate action in times when railroad service failures require immediate action to serve the public. Under this section, the Board may act on a petition or it may act on its own initiative, and under § 11123(b)(1) the Board's powers are "extensive"⁶ and it can act quickly on an *ex parte* basis without a drawn-out administrative proceeding.⁷ The Board may take such action under § 11123(b)(1) when it determines, in response to petition, "that a rail carrier providing transportation subject to the jurisdiction of the Board under

⁶ The Board recently reaffirmed its broad authority under § 11123 in EP 762, *Revisions to Regulations for Expedited Relief in Service Emergencies* (served April 22, 2022) at 4-5. See also STB Docket No. EP 724, *United States Rail Service Issues – Performance Data Reporting* (served November 30, 2016) at 5 ("The Board's powers under § 11123 are extensive and can be initiated by the agency," citing in part the authority to direct carriers to prioritize or give preference to traffic under § 11123(a)(4)(A)).

⁷ See footnote 1, *supra*; and Docket No. NOR 42165, *Hasa Inc. v. Union Pacific Railroad Company* (served August 21, 2019)(where the Board acted the day after a petition for emergency service order was filed, subject to further administrative proceedings).

this part cannot transport the traffic offered to it in a manner that properly serves the public.” Upon making such a determination, the Board has an extensive array of actions it can take to try to alleviate the harm over an initial 30-day period, including in pertinent part, “direct[ing] the handling routing and movement of the traffic of a rail carrier . . . ,”⁸ and “giv[ing] directions . . . for priority or preference in transportation.”⁹

B. Foster Farms Has Established Sufficient Facts for the Request to Be Granted

This *Ex Parte* Petition clearly establishes that UP’s current allocation of crews and locomotives, and its decisions concerning what traffic moves on its system and when, prevents UP from transporting Foster Farms’ unit trains in a manner than properly serves Foster Farms. Perhaps more significantly, because the commodity UP delivers to Foster Farms is corn that is exclusively used to feed hundreds of thousands of cattle and millions of chickens which are raised for the purpose of providing food supplies, the failure of UP to properly serve Foster Farm’s facilities translates into a much greater failure to properly serve the public as a whole.

**III.
REQUEST FOR RELIEF**

Based on the facts and reasons set forth above, Foster Farms asks the Board to grant this *Ex Parte* Petition and issue an emergency service order on or before June 17, 2022 directing UP to take the following actions concerning the transportation of Foster Farms’ unit trains of corn to its Traver and Turlock facilities for at least 30 days from the date of the order:

- A. Prioritize the assignment of crews to Foster Farms’ unit trains at loading origins.
- B. Prioritize the transportation of Foster Farms’ unit trains on UP’s system with the goal of minimizing the extent to which the crews on such trains

⁸ §11123(a)(1).

⁹ §11123(a)(4)(A).

“time out” under the Hours of Service rules, thereby enabling the train to complete its movement from origin to destination without stopping, the crew departing, and then waiting for a new crew.

- C. Assign and retain sufficient locomotives to Foster Farms’ trains at loading origins to ensure that once a Foster Farms’ train is loaded there is sufficient locomotive power for the unit train to immediately begin its trip to Foster Farms’ Traver and Turlock facilities.
- D. Direct UP to provide the Board with daily status reports over the 30-day period regarding the delivery of Foster Farms’ trains, such reporting to include the number of trains and cars billed to Foster Farms’ Traver and Turlock facilities, and actual performance versus trip plan data for these shipments.¹⁰

Finally, if UP should fail or refuse to comply with the Board’s directives in an Emergency Service Order issued in response to this *Ex Parte* Petition, the Board should impose the maximum monetary civil penalties permitted under 49 C.F.R. §1022, and any penalty should be assessed on a per car basis, such that UP’s failure to comply with the Board’s directive as to a 100-car unit train shall equal the maximum penalty permitted under the Board’s rules times 100.

Respectfully submitted,



Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
1629 K. Street NW, Suite 300
Washington, D.C. 20006
202-508-1065
tom@twilcoxlaw.com

Attorney for Foster Poultry Farms

June 15, 2022

¹⁰ This reporting requirement is modeled after the Board’s direction to Canadian Pacific Railway and BNSF for fertilizer shipments in Docket No. EP 724 (Sub-No.1), *United States Rail Service Issues* (served April 15, 2014).

VERIFICATION

I, Phil Greene, Vice President of Foster Poultry Farms, declare under penalty of perjury that the facts set forth in the foregoing *Ex Parte* Petition for Emergency Service Order are true and correct. Further, I certify that I am qualified and authorized to execute this verification on behalf of Foster Poultry Farms.

Executed: June 15, 2022



Phil Greene

EXHIBIT A - MAP



EXHIBIT B

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Tuesday, June 14, 2022 6:18 AM
To: Dan Hartmann <DPHARTMA@up.com>; Laura Heisterkamp <lauraheisterkamp@up.com>; Ryan Raess <RRAESS@up.com>
Cc: Jason Hess <JMHESS@up.com>
Subject: Re: this one looks like a disaster in the making our FR 14

Dan

We are about to kill millions of chickens. This train was needed Monday. Dairy animals will be without corn all week.

We are trucking all we can.

Then there is the next train need as well.

Please keep this moving and get us some inventory. Every minute now counts as we try to save lives. You have never put us in this situation 5 days late with no inventory and 40 to 50 million chickens to feed.

Phil Greene
Foster Farms
559 457 6503

From: Dan Hartmann <DPHARTMA@up.com>
Sent: Tuesday, June 14, 2022 6:00 AM
To: Greene, Phil <phil.greene@fosterfarms.com>; Laura Heisterkamp <lauraheisterkamp@up.com>; Ryan Raess <RRAESS@up.com>
Cc: Jason Hess <JMHESS@up.com>
Subject: RE: this one looks like a disaster in the making our FR 14

EXTERNAL

Phil,

The Carleton train did depart at 04:30 this morning. I'm working with our Operating team to keep it moving without further delay. I'll keep you informed of it's progress as it moves.

We understand the dire situation and will do what we can to get you caught up with your inventories.

Thanks,
Dan

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Tuesday, June 14, 2022 7:55 AM
To: Laura Heisterkamp <lauraheisterkamp@up.com>; Dan Hartmann <DPHARTMA@up.com>; Ryan Raess <RRAESS@up.com>
Cc: Jason Hess <JMHESS@up.com>
Subject: Re: this one looks like a disaster in the making our FR 14

*** PROCEED WITH CAUTION - This email was sent from outside the Company ***

Laura

I see this morning the Carleton train is not moving. I want to make sure the Union Pacific understands your failure to deliver is about to kill millions of chickens. These dead animals will have to be picked up in dump trucks and taken to the local dumps. This is going to be a animal disaster, economic and media nightmare. You have never done this to us. We need a train with corn here by tomorrow.

Phil Greene
Foster Farms
559 457 6503

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Monday, June 13, 2022 7:03 PM
To: Laura Heisterkamp <lauraheisterkamp@up.com>; Dan Hartmann <DPHARTMA@up.com>; Ryan Raess <RRAESS@up.com>
Cc: Jason Hess <JMHESS@up.com>
Subject: Re: this one looks like a disaster in the making our FR 14

Ok, thanks for the update.

Phil Greene
Foster Farms
559 457 6503

EXTERNAL

Get [Outlook for iOS \[aka.ms\]](#) [\[protect2.fireeye.com\]](#)

*** PROCEED WITH CAUTION - This email was sent from outside the Company ***

This train should have moved last weekend, we were already shorting feed to dairy customers hundreds of them starting today. This train must move - Now it looks like the failure of the Union Pacific Railroad to deliver feed will result in the killing of our California chickens unless this train moves immediately. Why can't your team get us in a better situation?

With the current Traver train ETA of 6/17 at 03:15 will need an additional 1600 tons of corn before Wednesday to ensure we have enough corn to cover the feed mills. Current inventories will prevent us from starting the roller mill until the train arrives.

We need your help and we need you to deliver our feed.

Phil Greene
Foster Farms

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From: Leal, Juliet <juliet.leal@fosterfarms.com>

Sent: Friday, June 10, 2022 4:13 PM

To: Barr, Matt <matt.barr@fosterfarms.com>; Schwendiman, Larry <larry.schwendiman@fosterfarms.com>; McCarty, Natalie <Natalie.McCarty@fosterfarms.com>

Cc: Foster Commodities Grain <FosterCommoditiesGrain@fosterfarms.com>; Myers, Robert <Robert.Myers@fosterfarms.com>

Subject: FW: Traver R/C - Train Delay for Mon. 06/13 AM & PM // Comm. +

Importance: High

Matt, Larry, Natalie,

Per Bob's request, please reply to this email.

Thank you

Juliet Leal

☎: Office (559)457-6559

☎: Cell (559)240-8286

✉: juliet.leal@fosterfarms.com

From: Lynda Broberg <lbroberg@commoditiesplus.com>

Sent: Friday, June 10, 2022 3:54 PM

To: Foster Commodities Grain <FosterCommoditiesGrain@fosterfarms.com>; Jason Bryan <jbryan@commoditiesplus.com>; Kevin Marsh <kmarsh@commoditiesplus.com>; Natasha Dukes <ndukes@commoditiesplus.com>; Wyatt Murphy <wmurphy@commoditiesplus.com>

Cc: Myers, Robert <Robert.Myers@fosterfarms.com>

Subject: RE: Traver R/C - Train Delay for Mon. 06/13 AM & PM // Comm. +

EXTERNAL

Where do you have them covered to pick up loads then?? On a Friday afternoon, we have no way to even try to have a back up plan!

THANK YOU!

Lynda Broberg

Commodities Plus

5207 E. 3rd Ave

Spokane Valley, WA 99212

Phone: 509-623-1144
Cell phone: 509-723-8344

From: Foster Commodities Grain <FosterCommoditiesGrain@fosterfarms.com>

Sent: Friday, June 10, 2022 3:45 PM

To: Jason Bryan <jbryan@commoditiesplus.com>; Kevin Marsh <kmarsh@commoditiesplus.com>; Lynda Broberg <lbroberg@commoditiesplus.com>; Natasha Dukes <ndukes@commoditiesplus.com>; Wyatt Murphy <wmurphy@commoditiesplus.com>

Cc: Foster Commodities Grain <FosterCommoditiesGrain@fosterfarms.com>; Myers, Robert <Robert.Myers@fosterfarms.com>

Subject: Traver R/C - Train Delay for Mon. 06/13 AM & PM // Comm. +

Importance: High

Good Afternoon,

Due to Traver Train Delay, the below loads scheduled for **Mon. 06/13 AM & PM** will not be able to ship.

These loads got canceled will not Rollover to the next day.

****Please inform your Customers & Freight Carriers ****

Mon. 06/13 AM:

TRAVER							
ROLLERMILL SCHEDULE							
Monday, June 13, 2022							
SHIFT MIDNIGHT - 6AM	CUSTOMER	SOLO ID	TRUCK	COMMENTS	SM		
1 EARLY AM	DENNIS BOERTJE & SON	F1400	VDB/FOB-WILLCALL	4:00AM-No Shipment-Train Delay	COMM+		
4 EARLY AM	SCHENSTRA DAIRY	F3491	ESPINOSA/FOB-WILLCALL	No Shipment-Train Delay	COMM+		
7 EARLY AM	RED ROSE DAIRY	F2248	VDB/FOB-WILLCALL	4:15AM-No Shipment-Train Delay	COMM+		
8 EARLY AM	WEST WING DAIRY	F5224	Saulh/FOB-WILLCALL	No Shipment-Train Delay	COMM+		
9 EARLY AM	S & S DAIRY	F2712	ESPINOSA/FOB-WILLCALL	No Shipment-Train Delay	COMM+		
10 EARLY AM	CIRCLE H DAIRY LLC	F5930	M&R TRANS/FOB-WILLCALL	No Shipment-Train Delay	COMM+		
21 AM	CHRIS DE JONG DAIRY	F4984	COST/FOB-WILLCALL	No Shipment-Train Delay	COMM+		
22 AM	JOHANN DAIRY	F3828	M-BETTENCOURT/FOB-WILLCALL	1-No Shipment-Train Delay	COMM+		
23 AM	JOHANN DAIRY	F3828	M-BETTENCOURT/FOB-WILLCALL	2-No Shipment-Train Delay	COMM+		
36 AM	ROB VAN GROUW DAIRY	F5195	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+		
37 AM	ROLLIN VALLEY FARMS	F339	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+		
38 AM	BARRETO & SILVEIRA	F17	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+		
39 AM	OAKVIEW DAIRY	F5119	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+		
40 AM	OAK BEND DAIRY SOUTH	F5201	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+		

Mon. 06/13 PM:

TRAVEL						
ROLLERMILL SCHEDULE						
Monday, June 13, 2022						
Time	CUSTOMER	SOLD TO	TRUCK	COMMENTS	SM	T
7 PM	S & S DAIRY	F2712	ESPINOSA/FOB-WILLCALL	2-No Shipment-Train Delay	COMM+	
10 PM	SKYLINE DAIRY	F5178	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+	
11 PM	DELTA VIEW FARMS	F166	CRIVELLI/DEL-441216	No Shipment-Train Delay	COMM+	
12 PM	HIGH ROLLER DAIRY	F5778	ADCO/FOB-WILLCALL	No Shipment-Train Delay	COMM+	
14 PM	MACHADO DAIRY AND FARMING CO INC	F2235	ADCO/FOB-WILLCALL	No Shipment-Train Delay	COMM+	
15 PM	F & L BARCELLOS DAIRY	F5876	ADCO/FOB-WILLCALL	No Shipment-Train Delay	COMM+	
16 PM	RANCHO TERESITA	F2241	Milanesio/FOB-WILLCALL	1-No Shipment-Train Delay	COMM+	
18 PM	RANCHO TERESITA	F2241	Milanesio/FOB-WILLCALL	2-No Shipment-Train Delay	COMM+	
41 LATE PM	FARIA FARMS INC	F6110	BARCELLOS FARMS -FOB-WILLCALL	No Shipment-Train Delay	COMM+	
42 LATE PM	FIVE STAR DAIRY	F6112	BARCELLOS FARMS -FOB-WILLCALL	No Shipment-Train Delay	COMM+	

With Appreciation,

Lorena Ruiz

Foster Farms Commodities

Customer Service Representative

Office: (559)457-6574 ext. 6574

Email: Lorena.Ruiz@fosterfarms.com



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From: [Horstmann, Kate](#)

Sent: Thursday, June 9, 2022 10:02 AM

To: [Myers, Robert](#); [Barr, Matt](#); [Greene, Phil](#); [Leal, Juliet](#); [McCarty, Natalie](#); [Schwendiman, Larry](#)

Cc: [Torbert, Kris M.](#); [Soliece, Christopher](#); [Seifert, Jon D.](#); [Holland, Geoff](#); [Crow, Ryan](#)

Subject: CA Corn Inventories - Updated

Good Morning,

The Turlock train is scheduled to arrive in Roseville now. The current ETA is tonight at 18:57, **any pressure we can put on the UP to ensure this train leaves Roseville on time is critical**. If this train does not arrive tonight we will be down to 500 tons of corn at Turlock Commodities to start the day tomorrow.

Traver

- Current train ETA 6/12 at 07:12
- We will be unable to start the rolls on Monday morning if the train does not arrive

Thanks,

Kate

Kate Horstmann

Foster Farms

559-457-6509

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From: Barr, Matt <matt.barr@fosterfarms.com>

Sent: Tuesday, May 31, 2022 8:57 AM

To: Greene, Phil <phil.greene@fosterfarms.com>

Subject: corn train situation

FR 14 is loaded and billed at Carleton. Turlock needs it by Friday the 3rd. we will probably shut down the roller mill Thursday.

FR 11 has been empty at Traver for 6 days. this is the next Turlock train after FR 14 and we need it back here by 7-8th.

FR 15 is in N. Platte and should be loading Randolph 1st or 2nd, if it moves today. Traver needs it by the 7th

FR 12 is empty at Turlock. It needs to load this week end

Thanks,
Phil

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Tuesday, May 31, 2022 4:32 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>; Daniel P. Hartmann <DPHARTMA@up.com>
Subject: RE: train update

This weekend was a disaster as far as train movement is concerned. We are in trouble at both turlock and tarver. We need to assess this morning.

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Saturday, May 28, 2022 7:54 AM
To: Barr, Matt <matt.barr@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: Re: train update

Ok, thanks for the update. Have you reached out to the railroad? I will get a hold of STB again this morning.

Phil Greene
Foster Farms
559 457 6503

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Saturday, May 28, 2022 3:58:37 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: RE: train update

FR 11 still empty at Traver, this is becoming a problem

FR 12 loaded in Nv. lost a few hrs but still eta turlock Sunday about noon

FR 14 empty is Wy and should be loading this weekend for next turlock train

FR 15 Empty. I show still in Roseville. This is becoming a problem

From: Greene, Phil <phil.greene@fosterfarms.com>

Sent: Friday, May 27, 2022 8:16 PM
To: Barr, Matt <matt.barr@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: Re: train update

I have contacted the Surface Transportation Board this evening on the Roseville and Traver empty. We will see what they are able to do to help.

Matt make sure you do a request with the Railroad as well.

Phil Greene

Foster Farms

559 457 6503

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Friday, May 27, 2022 7:19 PM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: train update

FR 11 released at Traver, still not moving for 2nd day. Returning to sheldon
FR 12 still moving, still eta'd turlock Sunday early morning. Picked up time
FR 14 empty and moving through UT as scheduled. The next turlock train
FR 15 still in Roseville and now a problem as it's loading in MN and traver needs it by 6-6

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From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Tuesday, May 31, 2022 8:57 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Subject: corn train situation

FR 14 is loaded and billed at Carleton. Turlock needs it by Friday the 3rd. we will probably shut down the roller mill Thursday.

FR 11 has been empty at Traver for 6 days. this is the next Turlock train after FR 14 and we need it back here by 7-8th.

FR 15 is in N. Platte and should be loading Randolph 1st or 2nd, if it moves today. Traver needs it by the 7th

FR 12 is empty at Turlock. It needs to load this week end

Thanks,
Phil

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Tuesday, May 31, 2022 4:32 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>; Daniel P. Hartmann <DPHARTMA@up.com>
Subject: RE: train update

This weekend was a disaster as far as train movement is concerned. We are in trouble at both turlock and tarver. We need to assess this morning.

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Saturday, May 28, 2022 7:54 AM
To: Barr, Matt <matt.barr@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: Re: train update

Ok, thanks for the update. Have you reached out to the railroad? I will get a hold of STB again this morning.

Phil Greene
Foster Farms
559 457 6503

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Saturday, May 28, 2022 3:58:37 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: RE: train update

FR 11 still empty at Traver. this is becoming a problem

FR 12 loaded in Nv. lost a few hrs but still eta turlock Sunday about noon

FR 14 empty is Wy and should be loading this weekend for next turlock train

FR 15 Empty. I show still in Roseville. This is becoming a problem

From: Greene, Phil <phil.greene@fosterfarms.com>
Sent: Friday, May 27, 2022 8:16 PM
To: Barr, Matt <matt.barr@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: Re: train update

I have contacted the Surface Transportation Board this evening on the Roseville and Traver empty. We will see what they are able to do to help.

Matt make sure you do a request with the Railroad as well.

Phil Greene

Foster Farms

559 457 6503

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Friday, May 27, 2022 7:19 PM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Subject: train update

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From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Monday, May 23, 2022 6:45 AM
To: Daniel P. Hartmann <DPHARTMA@up.com>
Cc: Greene, Phil <phil.greene@fosterfarms.com>
Subject: FR 14 and FR 15

They are in Stockton and Roseville so why are they not schedule to get into Turlock and Traver until tomorrow??

mb

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Good Afternoon,
Please see below plan based on current inventories and train status.

Traver

- Current train ETA 5/22 at 2039
- Inventory OK based on current train ETA

Turlock

- Current train ETA 5/23 at 0155
- Potentially will not be able to roll on Monday until train arrives, we will reevaluate tomorrow

Thank You,
Kate

Unit Train Customer Interface

Process Trains

Current User: rbr431

Logout

UTCJ-Home

View

Forecast

Incentives

Help

Return to:

Tell Us About an Issue or Concern

[Provide Feedback](#)

[View Feedback Status](#)

Trains In Process

Commodity: ALL

[Export to Excel](#) [Print Version](#)

Inbounds

Outbounds

Arrival (Est/Act)	Train ID	Set	Cars (Act/Est)	Current Location	Placed	Release (Est/Act)	Notes	Locomotive Usage
DELHI CA FOSTER FARMS								
No Trains Found								
KEARNEY/TURLOCK FOSTER FARMS								
05/12 04:47 PT	6550TU 11	PR15	109	Kearney, CA	05/12 06:05 PT	05/12 20:30 PT		
05/18 09:54 PT	6550TU 13	PR12	107	Kearney, CA	05/18 11:30 PT	05/19 02:00 PT		
05/23 00:18 PT	6550TU 18	PR14	105	Wooman, NE				
TRAVELER CA FOSTER FARMS								
05/13 20:53 PT	6550TR 13	PR11	102	Traver, CA	05/14 00:20 PT	05/14 15:00 PT		
05/23 00:55 PT	6550TR 19	PR15	102	North Platte West, NE				
05/24 05:19 PT	6550TR 20	PR11		Grand Island, NE				

05/19/22 19:09 CDT

From: Barr, Matt <matt.barr@fosterfarms.com>

Sent: Saturday, May 14, 2022 1:52 PM

To: Greene, Phil <phil.greene@fosterfarms.com>; Daniel P. Hartmann <DPHARTMA@up.com>

Subject: FW: Copy of Copy of Car Trace 2.xls trains

the status of these trains has not changed since I ck'd them this morning at 8am PT. They all need to move today.

From: Barr, Matt

Sent: Saturday, May 14, 2022 7:53 AM

To: Greene, Phil <phil.greene@fosterfarms.com>

Subject: Copy of Copy of Car Trace 2.xls trains

Traver received their train early this morning FR 11

Turlock train in N.Platte. eta slipped to Tuesday FR 12

The 2 empties both moved but still in cali. FR 14 and FR 15

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Good Afternoon,
When is the next train schedule to arrive at Traver? The UP website does not show anything, below is expected inventory by day for this week. We will need corn by Thursday to be able to roll on Friday.

	5/1	5/2	5/3	5/4	5/5	5/6	5/7
Traver Corn	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Starting Inv	13,900	13,900	11,100	8,300	5,500	2,700	-100
Est. Rec							
Usage		2800	2800	2800	2800	2800	2805
Ending Inv	13,900	11,100	8,300	5,500	2,700	-100	-2,905

Thank you,
Kate

Kate Horstmann
Foster Farms
559-457-6509

Travers next run out is 5-7th. The train we are relying on, FR 14, is empty and scheduled to load in Miloma tomorrow.

After the FR 12 inbound, Turlock has a run out date of 5-11. We have 2 empties, one of which goes to Turlock when loaded. FR 11 and FR 15, first one goes to Turlock

mb

This is what we are seeing tonight. No FR14 on the screen but we understand it is on its way to Miloma.

Thanks,
Phil

From: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>

Sent: Thursday, April 14, 2022 5:00 PM

To: Barr, Matt <matt.barr@fosterfarms.com>; Greene, Phil <phil.greene@fosterfarms.com>; Waddell, Phil <phil.waddell@fosterfarms.com>; Myers, Robert <Robert.Myers@fosterfarms.com>

Cc: Torbert, Kris M. <Kris.Torbert@fosterfarms.com>; Seifert, Jon D. <Jon.Seifert@fosterfarms.com>; Soliece, Christopher <Christopher.Soliece@fosterfarms.com>

Subject: CA Commodities Corn Inventories

Afternoon,

Turlock

- UP needs to pull the empty train so we can receive the 2nd train which is parked in Manteca waiting
- Need to get 2nd train by Monday morning at the latest

Traver

- Train ETA is 4/16 at 20:51
- We will continue rolling tomorrow (Friday) with the additional tonnage from PN
- If the train does not arrive by Sunday night, we will not be able to roll on Monday

Thank You,
Kate

Kate Horstmann
Foster Farms
559-457-6509

From: Barr, Matt <matt.barr@fosterfarms.com>
Sent: Tuesday, April 12, 2022 9:52 AM
To: Greene, Phil <phil.greene@fosterfarms.com>
Cc: Waddell, Phil <phil.waddell@fosterfarms.com>
Subject: traver corn

We have an Ord, Ne. train, FR 12, loading today for Traver. We need to see a "call" on this train, having power and crew, as soon as it is billed as we need it out here by the 17th. I will see if I can buy truck corn from PN to give us a couple days inventory cushion.

If we don't have the train by the 17th then we will once again have to shut the roller mill down in order to maintain chicken feed production.

mb

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From: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>
Sent: Thursday, April 14, 2022 5:00 PM
To: Barr, Matt <matt.barr@fosterfarms.com>; Greene, Phil <phil.greene@fosterfarms.com>; Waddell, Phil <phil.waddell@fosterfarms.com>; Myers, Robert <Robert.Myers@fosterfarms.com>
Cc: Torbert, Kris M. <Kris.Torbert@fosterfarms.com>; Seifert, Jon D. <Jon.Seifert@fosterfarms.com>; Soliece, Christopher <Christopher.Soliece@fosterfarms.com>
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Kate Horstmann
Foster Farms
559-457-6509

From: Horstmann, Kate <Kate.Horstmann@fosterfarms.com>

Sent: Thursday, April 14, 2022 5:00 PM

To: Barr, Matt <matt.barr@fosterfarms.com>; Greene, Phil <phil.greene@fosterfarms.com>; Waddell, Phil <phil.waddell@fosterfarms.com>; Myers, Robert <Robert.Myers@fosterfarms.com>

Cc: Torbert, Kris M. <Kris.Torbert@fosterfarms.com>; Seifert, Jon D. <Jon.Seifert@fosterfarms.com>; Soliece, Christopher <Christopher.Soliece@fosterfarms.com>

Subject: CA Commodities Corn Inventories

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Thank You,

Kate

Kate Horstmann
Foster Farms
559-457-6509

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June 2022, I served a copy of the foregoing *Ex Parte* Petition for Emergency Service Order by electronic mail upon the Chief Legal Officer for Union Pacific Railroad Company, as follows:

Craig Richardson, Esquire
1400 Douglas Street
Omaha, NE 68179
cvrichar@up.com


