



Surface Transportation Board
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January 18, 2023

The Honorable Brad Finstad
1605 Longworth House Office Building
Washington, DC 20515

The Honorable Michelle Fischbach
1004 Longworth House Office Building
Washington, DC 20515

The Honorable Angie Craig
2442 Rayburn House Office Building
Washington, DC 20515

The Honorable Randy Feenstra
1440 Longworth House Office Building
Washington, DC 20515

The Honorable Ashley Hinson
1717 Longworth House Office Building
Washington, DC 20515

The Honorable Mariannette Miller-Meeks,
M.D.
1034 Longworth House Office Building
Washington, DC 20515

The Honorable Zach Nunn
1232 Longworth House Office Building
Washington, DC 20515

The Honorable Tom Tiffany
451 Cannon House Office Building
Washington, DC 20515

Dear Representatives Finstad, Fischbach, Craig, Feenstra, Hinson, Miller-Meeks, Nunn, and Tiffany:

Thank you for your recent letter regarding Union Pacific Corporation's (UP) December 29, 2022 weather-related embargo on rail service throughout Minnesota, Iowa, and Wisconsin. As you note, UP announced that it is extending the embargo for an additional 14 days. I appreciate hearing your concerns about the serious detrimental impacts this embargo has had, and will continue to have, on the rail customers and residents across your states, and on the overall economy. I can assure you that the Board takes these concerns very seriously.

I have become increasingly alarmed with UP's deteriorating rail service and sharp increase in the use of embargoes across its network, and the Board has taken several recent actions to address these issues. In April 2022, the Board convened a public hearing in [Urgent Issues in Freight Rail Service](#), Docket No. EP 770, and received testimony both from numerous concerned stakeholders and from railroad representatives of UP, BNSF Railway Company, CSX Corporation, and Norfolk Southern Corporation. As a result of significant concerns about performance by these largest U.S. rail carriers, the Board followed up after the hearing by requiring the railroads to submit service recovery plans and additional data and progress reports on service, operations, and employment levels.

In October 2022, the Board found that key performance indicators such as velocity, terminal dwell, first-mile/last-mile service, operating inventory, and trip plan compliance showed that operations on these four carriers remained significantly challenged. As a result, the Board extended the temporary data reporting period until May 5, 2023. Board staff continue to thoroughly review and closely analyze this performance data, including UP's data, on a weekly basis.

In addition, and in response to UP's disturbing upward trend in the use of embargoes, in December 2022, the Board held a two-day public hearing focusing on UP's routine use of embargoes in Oversight Hearing Pertaining to Union Pacific Railroad Company's Embargoes, Docket No. EP 772. The Board directed UP CEO Lance Fritz, and other top UP executives, to appear personally and provide detailed testimony on: (1) UP's decision making process on determining whether to issue an embargo; (2) How UP measures congestion and total excess cars throughout its system; (3) The explanations for the dramatic increase in embargoes since 2017, including whether UP has maintained sufficient resources during that time period; (4) UP's practices and policies with respect to notification and outreach to shippers; (5) UP's consideration of shippers' operational needs, including alternative avenues to meet their shipping requirements; (6) UP's implementation and use of the Car Inventory Management System; (7) Whether UP has considered the impact of its embargoes on its common carrier and other legal obligations, and if so, the specifics of that consideration; and (8) UP's plans, if any, to decrease the need for embargoes going forward. During the hearing, the Board also received testimony from shippers and shipper associations who have been negatively impacted by UP's increased use of embargoes, and from railroad employees who offered accounts of embargo use from their perspective. Following the hearing, UP notified the Board that it was pausing any additional embargoes under its pipeline inventory management program in order to take a hard look at its use of congestion embargoes. (See Letter from UP CEO Lance Fritz to Chairman Martin Oberman, December 16, 2022, in STB Docket No. EP 772).

As you may know, on December 29, 2022, Foster Poultry Farms, located in California, filed a petition for emergency service with the Board as a result of continued deterioration in rail service from UP. Foster Poultry Farms – Ex Parte Petition for Emergency Service Order, STB Docket No. FD 36609. The Board issued a decision ordering UP to deliver specific train sets of animal feed to Foster Farms on a specified schedule, in order to avert a potential significant loss of livestock. Previously, because of similar service issues affecting Foster Farms, the Board had issued an emergency service order in June 2022 directing UP to adhere to specific service commitments and report regularly to the Board. This docket remains open for additional Board action, if necessary.

As you can see, the Board is deeply aware of UP's service shortfalls and I thank you again for your letter addressing the serious concerns UP's current embargo presents for your constituents in Minnesota, Iowa, and Wisconsin, and to the Nation's supply chain overall. I can assure you that I share your concerns and will continue to hold UP accountable with respect to its plans to lift not only the current embargo, but to address its general use of embargoes to manage its operations.

A copy of your letter and this response has been placed in the public dockets. If you or your staff have any questions, please contact Ms. Janie Sheng, Director of the Board's Office of Public Assistance, Governmental Affairs, and Compliance, at 202-245-0238.

Sincerely,

A handwritten signature in black ink, reading "Martin J. Oberman". The signature is written in a cursive style with a large, stylized "M" and "O".

Martin J. Oberman
Chairman