



**Kern Council  
of Governments**

VIA E-FILING

233275

Chairman Daniel R. Elliott III and  
Board Members: Francis P. Mulvey and Ann D. Begeman  
Surface Transportation Board  
U.S. Department of Transportation  
395 E Street, SW  
Washington, D.C. 20423

**ENTERED  
Office of Proceedings  
October 26, 2012  
Part of  
Public Record**

Re: Genesee & Wyoming Inc. (G&W) acquisition of RailAmerica, Inc. Docket No. FD 35654  
-Kern Council of Governments' Response to Central California Railroad Shippers & Receivers  
Association Comments and Requests for Conditions

**INTRODUCTION**

Kern Council of Governments (Kern COG) submits the following comments in response to the Central California Railroad Shippers & Receivers Association's (CCRSRA) comments and request for conditions submitted October 9<sup>th</sup>, 2012.<sup>1</sup>

Kern Council of Governments (Kern COG) is responsible for managing a continuous, cooperative and comprehensive transportation planning process and program within the Kern region, which includes 11 incorporated cities, the County of Kern, and a population base of just over 850,000. The Kern regional transportation program addresses all modes and the unique needs of a vast and diverse region. Rail-loaded freight movement is an integral part of Kern's transportation system and Kern COG has been working with railroads, the State Department of Transportation, San Joaquin Valley (SJV) Air District and other agencies on rail projects to improve our transportation system's efficiency.

**The Importance of Rail to Our Region**

**ECONOMIC BENEFITS**

-A recent Kern COG study showed 3,350 regional jobs are dependent on rail service.

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<sup>1</sup> Kern COG attempted to file these comments with the STB by mail to be received by the STB on October 9, 2012, but it has since learned that the comments were never posted on the Board's website as having been received, although service copies were sent. In order to ensure proper agency receipt, Kern COG is filing these comments now via E-FILING, and has styled them as responsive comments.

-As stated by Joseph C. Szabo, Administrator of the Federal Railroad Administration, "No economy can grow faster than its transportation network can carry it." Rail supports the vast agriculture, oil refining, mineral extraction, and production industries in the Kern region. Without these industries, Kern would lose more than one-third of its employment base.

#### AIR QUALITY BENEFITS

-Kern County suffers from one of the poorest air quality ratings in the nation. Having rail work efficiently within the transportation system improves the overall network, and expanding rail use can further relieve truck traffic, which produces considerably more pollutants per ton-mile than rail.

#### SAFETY BENEFITS

-Expanding rail service in Kern can help reduce the number of fatal vehicle accidents by removing trucks from the road: Rail has fewer fatal accidents per ton-mile of cargo shipped than trucks.

### **Kern Council of Governments' Rail Concerns:**

#### AT-GRADE CROSSING DELAY

The Landco Subdivision Line on the San Joaquin Valley Railroad crosses State Route 58 at-grade. If a train slows or stops on this crossing during peak hour traffic, it creates traffic congestion for thousands of cars, adding to the detrimental pollutants in our air and slowing the commerce in our region. The most recent (2011) traffic counts for this section of State Route 58 have shown more than 90,000 vehicles/day. It is vital that railroads work to schedule train movements appropriately to lessen the impact to vehicle traffic during peak periods. Maintaining track to a condition that allows for greater speeds will assist trains in meeting a more flexible and efficient schedule: Railroads should invest profits back into the local railroads where revenue is being generated.

#### RAIL ABANDONMENT

Our region has been losing rail to abandonment. Current economic conditions present a threat of further abandonments. If rail is abandoned now, it will be too costly to rebuild in the future when economic conditions are better and there is a higher demand for rail use. Recent Kern COG-sponsored studies demonstrate that generally the SJVR's lines in our region are profitable and that profits will

continue annually over the next decade growing with increases in the traffic base. Nevertheless, shippers have heightened concerns over new and increased railroad fees as well as concerns that the San Joaquin Valley Railroad – a subsidiary of RailAmerica Inc. – would rather eliminate lower-revenue lines and grow through higher fees than through lower-margin traffic growth. Because of rail's value to our transportation system, our region's economy and the businesses that rely on it, Kern COG strongly believes that the federal Surface Transportation Board (STB), the agency with direct jurisdiction over freight railroads, needs to be doing everything it can to ensure that railroads fully uphold their common carrier obligations to adequately serve the public. In this respect, a railroad's responsibility to reasonably serve should outweigh the importance of a corporate profit margin which appears to have been the case with some of the programs that have been implemented in our region.

#### RAIL INVESTMENT/EXPANSION

Kern COG would appreciate nothing more than to see railroads reasonably invest in their systems, expand and continue their growth; however, shippers in our region have expressed alarm over the past few years as surcharges and accessorial fees have grown astronomically for unexplained reasons and even with these new fee programs, very little reinvestment is actually taking place. Many shippers are now being forced to consider other shipping options, relocation or closing their businesses completely.

#### **RESPONSE TO: COMMENTS AND REQUESTED CONDITIONS**

In the comments submitted by the Central California Railroad Shippers and Receivers Association, issues are identified as presenting serious competitive harm to businesses and local economies and CCRSRA have asked the STB to provide conditions that will adequately address these concerns. Kern Council of Governments supports each of the following conditions set forth by CCRSRA (see CCRSRA Request for Conditions pp36-37 for full descriptions):

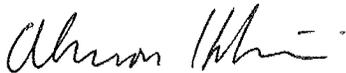
1. *Specific Practices Raised by Individual CCRSRA Members*; and 2. *Application of Practices Generally Post-Transaction*. These conditions will help protect public interests identified in the

CCRSRA comments and addresses Kern COG's rail concerns of Abandonment and Investment/Expansion listed previously.

3. *Regular Meetings*. Kern Council of Governments view this condition to be valuable to our public interests and rail concerns, specifically having open discussions and working together on issues such as the SR-58/Landco grade crossing mentioned previously.
4. *Periodic Reports*; 5. *Oversight*; 6. *Representations*. These conditions further protect the public interest in a reasonable method to ensure the applicants' commitment to providing the list of public benefits resulting from the merger, including: "Safe, Reliable and Efficient Rail Service;" "Commitment to Continuously Improving Customer Service;" "Focused Local Economic Development;" and "Long-Term Owner, With Long-Term Perspective." The STB should continue to monitor and provide oversight after the merger to ensure G&W follows through with the proclamations made in the application and that its representatives will work with local agencies to resolve issues like the Landco/SR-58 grade crossing.

Thank you in advance for your time and consideration of these proposals.

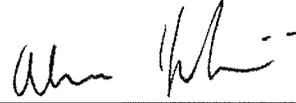
Sincerely,



Ahron Hakimi, Executive Director  
Kern Council of Governments

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served this 26th day of October, 2012, by first-class mail, postage pre-paid, on all Parties of Record in this Proceeding

A handwritten signature in black ink, appearing to read "Ahron Hakimi", written above a horizontal line.

Ahron Hakimi