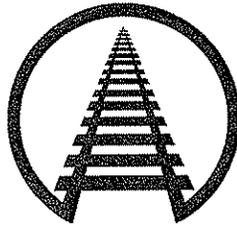


STATEMENT OF

**EDWARD R. HAMBERGER
PRESIDENT & CHIEF EXECUTIVE OFFICER
ASSOCIATION OF AMERICAN RAILROADS**



BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

HEARING ON HIGH-SPEED AND INTERCITY PASSENGER RAIL

DECEMBER 6, 2012

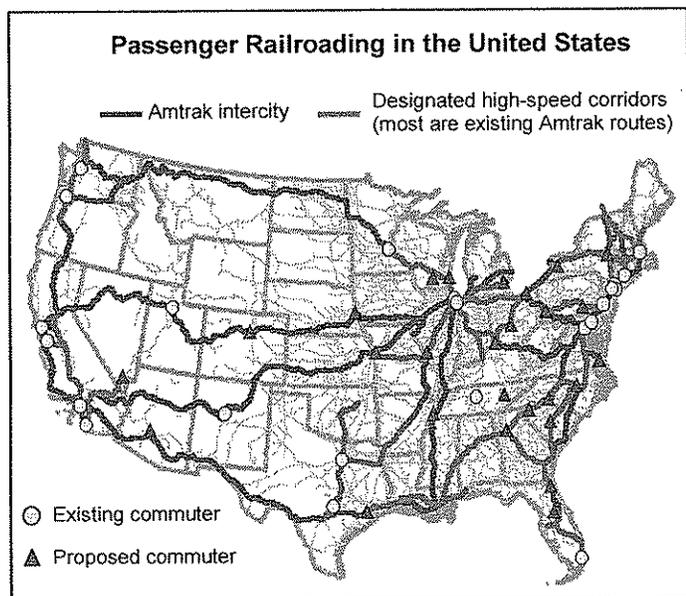
**Association of American Railroads
425 Third Street SW
Washington, DC 20024
202-639-2100**

Introduction

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify today. AAR members account for approximately 82 percent of U.S. freight rail mileage, 95 percent of freight rail employees, and 97 percent of freight rail revenue. Amtrak and several commuter passenger railroads are also members of the AAR. The AAR is presenting this testimony on behalf of its freight railroad members only.

Our nation's privately-owned freight railroads are already partners with passenger railroads all across the country. Nearly 97 percent of Amtrak's approximately 22,000-mile system consists of tracks owned and maintained by freight railroads. Freight railroads also furnish other essential services to Amtrak, including train dispatching, emergency repairs, station maintenance, and, in some cases, police protection and communications capabilities.

In addition, hundreds of millions of commuter trips each year occur on commuter rail systems that operate at least partially over tracks or right-of-way owned by freight railroads; and most of the high speed and intercity passenger rail projects under development nationwide will utilize freight-owned facilities.



Freight Railroads Are Critical to America's Economic Future

As everyone here knows, reshaping the nation's passenger transportation system with expanded rail choices entails significant challenges. There has been a great deal of discussion in recent years — and a great deal of disagreement — on how to deal with these challenges. I respectively suggest, however, that there should be no disagreement that America's economic health and global competitiveness would suffer greatly if the expansion of passenger rail service were to impede our nation's freight railroads.

Today, whenever Americans grow something, eat something, mine something, make something, turn on a light, or get dressed, freight railroads were probably involved somewhere along the line. We're proud that America's freight railroads are the envy of the world, providing a huge competitive advantage for our nation's firms in the global economy and providing an important source of higher standards of living for America's consumers.

Over the coming decades, population and economic growth will mean sharply higher demand for freight transportation. For example, the Federal Highway Administration (FHWA) recently estimated that demand for freight transportation in the United States will rise 50 percent from 2010 to 2040. Railroads are the best way to meet this growing demand. Their combination of efficiency, affordability, comprehensiveness, safety, and environmental friendliness is unmatched among freight transportation modes. Overwhelmingly privately-owned and operated, America's freight railroads in recent years have been reinvesting more than \$20 billion per year (of their own funds, not government funds) to create a freight rail network that is second to none in the world. These record investments are being made expressly because freight railroads want to be ready to meet their customers' needs and help the economy grow in the years ahead.

Thus, for passenger rail expansion to succeed, all parties — policymakers, railroads, and others — must understand that America's economic health and global competitiveness would

suffer greatly if the integration of freight service with expanding passenger service is not planned and implemented to ensure the ongoing success of both services. This point has been recognized by the U.S. Department of Transportation Secretary Ray LaHood, who has observed many times that we will not create a world-class high-speed rail system at the expense of our world-class freight rail system.

Through their ownership of the vast majority of the rights-of-way over which expanded intercity passenger rail would take place, freight railroads provide the literal foundation for passenger rail. That's why great care must be taken to ensure there will be a regulatory and legal framework that protects the business needs and responsibilities of all parties.

In that regard, freight railroads strongly support existing federal guidelines that stipulate that states receiving federal grants for intercity and high-speed rail projects must have written agreements up front with host freight railroads. The issues addressed — such as safety, capacity, compensation, and liability — help to ensure that all parties are on the same page, protect all parties' interests, and avoid unpleasant surprises later.

Principles to Guide the Expansion of Passenger Rail

Freight railroads agree that passenger railroading can play a key role in alleviating highway and airport congestion, decreasing dependence on foreign oil, reducing pollution, and enhancing mobility and safety. At the same time, however, the ultimate success of passenger rail in this country, and including especially high-speed rail, will depend on the willingness of policymakers to address, in a serious and realistic fashion, the numerous financial, legal, and operational issues associated with passenger rail.

Perhaps most importantly, once policymakers in the Administration, Congress, and the various states agree on the nature and scope of passenger railroading in this country, they must

be willing to commit public funds on a long-term basis commensurate with that determination. The AAR has long advocated that true high speed rail must operate on dedicated track and in a sealed corridor. In the meantime, moving to higher speed rail on a mixed use basis presents significant challenges. We believe these challenges can be more easily met if five key principles are followed.

One, safety comes first. Railroads are an extremely safe way to move both people and freight, and everyone involved in railroading wants to keep it that way. That's why safety has to come first when it comes to passenger trains sharing track or rights-of-way with freight trains. Under certain conditions (case-by-case evaluations are always necessary) passenger trains operating at speeds over 79 miles per hour may be able to safely share tracks with freight trains. Of course, as this Committee well knows from its experience with highways, vehicles operating at much different speeds present both safety and capacity concerns, leading to our second principle.

Second, capacity issues, including the ability to grow freight and passenger service, must be properly addressed. As noted above, over the coming decades, population and economic growth will mean sharply higher demand for freight transportation, and railroads are the best way to meet this demand.¹ But if passenger rail impedes freight rail and forces freight that otherwise would move by rail onto the highway, many of the primary reasons for having passenger rail in the first place — enhanced mobility, reduced congestion, and environmental benefits — would be compromised.

On many corridors, current or expected freight traffic levels usually mean there is no spare capacity for passenger trains. In these cases, new capacity will be needed before passenger

¹ For a summary of some of the key reasons why moving more freight by rail represents good public policy, see pages 2-6 of the April 7, 2011 testimony of Edward R. Hamberger before the House Transportation Subcommittee on Railroads, Pipelines, and Hazardous Materials.

trains can operate. New infrastructure built for passenger trains should fully preserve both the ability to operate freight trains as needed and the opportunity to expand further freight service as the need arises in the future, including the ability of the freight railroad to access new customers along the right-of-way. In other words, passenger rail projects cannot “box in” the freight railroad so that new freight customers cannot access the freight railroad. This would limit the ability of the freight railroad to grow and subvert good public policy by potentially forcing this business to go by truck over road.

Third, if passenger trains use freight railroad assets and property, it is reasonable for the host freight railroad to expect full and fair compensation. Simply put, freight railroads should not be expected to subsidize passenger rail any more than firms that provide locomotives, fuel, or food for dining cars. Tracks on which passenger trains operate, particularly high-speed trains, must meet different standards requiring significantly higher and more expensive maintenance than tracks on which freight trains operate. Host freight railroads should be fully compensated for these and any other added costs involved.² Moreover, railroads should not be subject to any new local, state, or federal tax liability as a result of a passenger rail project.

Fourth, freight railroads must be adequately protected from liability that would not have resulted but for the added presence of passenger rail service. It is almost inevitable that some accidents will occur on railroads, despite railroads’ best efforts to prevent them. An accident involving passenger trains — which are generally far lighter than freight trains, often travel at much higher speeds, and, most importantly, have passengers on board — is far more likely to

² By statute, access fees that Amtrak pays to operate over the freight railroads’ tracks are only required to cover the “incremental” costs associated with Amtrak’s operations — that is, the additional costs that arise solely because of Amtrak’s presence. Amtrak is not required to contribute to the freight railroads’ fixed costs or to the shared costs for which Amtrak operations have a responsibility. Consequently, Amtrak’s “track rental fee” is low and is, for all intents and purposes, an indirect subsidy paid by freight railroads to Amtrak. This means that the current structure by which Amtrak “rents” freight tracks should not necessarily serve as a guidepost for the future.

involve significant casualties than an accident involving only freight trains. Passenger operations also bring more people onto railroad property, resulting in a corresponding increase in risk. These potentially ruinous risks make freight railroads extremely reluctant to allow passenger trains on their tracks without adequate protection from liability.

Finally, there can be no one-size-fits-all approach. Each project involving passenger rail on freight-owned tracks in general, and high-speed rail projects in particular, has its own unique challenges and circumstances. Freight railroads currently and will continue to do their best to work with policymakers and passenger rail operators to overcome these challenges. For this to happen, agreements must be tailored to the specific needs and conditions of each project, which is why each project must be evaluated on a case-by-case basis.

Conclusion

To reiterate, freight railroads want passenger railroads to succeed, they work cooperatively with passenger railroads to help make this happen, and they support government efforts to grow passenger rail in ways that make economic sense and that complement freight rail growth.

At the same time, America's economic health and global competitiveness depends on having a healthy freight rail system. Expanding passenger rail on corridors owned by freight railroads will require a partnership between freight and passenger railroads that strikes the right balance and protects the business needs and responsibilities of both parties. Freight railroads are committed to working with government officials, passenger rail stakeholders, and others to ensure a winning result for all parties involved.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name: Edward R. Hamberger

(2) Other than yourself, name of entity you are representing:
Association of American Railroads

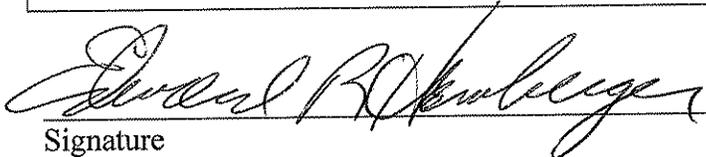
(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES If yes, please provide the information requested below and attach your curriculum vitae.

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

N/A


Signature

11/14/12
Date

EDWARD R. HAMBERGER
President and CEO
Association of American Railroads

Ed Hamberger serves as President and Chief Executive Officer of the Association of American Railroads (AAR). Mr. Hamberger has over thirty years experience in public policy through his work in both the executive and legislative branches of government, as well as his career as an attorney.

Prior to joining the AAR in July 1998, he was the managing partner of the Washington, DC office of Baker, Donelson, Bearman & Caldwell. He came to the firm in 1989 after having served as Assistant Secretary for Governmental Affairs at the Department of Transportation.

Mr. Hamberger began his career in transportation in 1977 as General Counsel of the National Transportation Policy Study Commission. In 1985, he was appointed as a member of the Private Sector Advisory Panel on Infrastructure Financing and in 1994 served as a member of the Presidential Commission on Intermodal Transportation. Most recently, he served on the Blue Ribbon Panel of Transportation Experts, appointed by the National Surface Transportation Policy and Revenue Study Commission.

Mr. Hamberger received his Juris Doctor, and both a Master of Science and a Bachelor of Science, in Foreign Service from Georgetown University.