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October 1, 2008

Edward J. Fishman

Via Hand Delivery

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Honorable Anne Quinlan
Acting Secretary
Surface Transportation Board
395 F Street, SW
Washington, DC 20423



**RE: Finance Docket No. 35183
Genesee & Wyoming Inc. – Control Exemption – Georgia
Southwestern Railroad, Inc.**

Dear Secretary Quinlan

On behalf of Genesee & Wyoming Inc. ("GWT"), please find enclosed for filing in the above-referenced docket an executed copy of the Voting Trust Agreement referenced in the **Petition for Exemption** that is being filed contemporaneously herewith.

Please contact me if you have any questions. Thank you

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward J. Fishman".

Edward J. Fishman
Attorney for Genesee & Wyoming Inc.

Enclosure

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Office of Proceedings
OCT 2 - 2008
Part of
Public Record

VOTING TRUST AGREEMENT

THIS VOTING TRUST AGREEMENT (the "Voting Trust" or "Agreement") is made and entered into this 1st day of October, 2008, by and between Genesee & Wyoming Inc., a Delaware corporation ("Settlor"), and Alan R. Harris (the "Trustee"), whose address is 2918 Malone Drive, Panama City, FL 32405. This Voting Trust is being entered into pursuant to the Guidelines for the Proper Use of Voting Trusts as set forth in 49 C.F.R. Part 1013.

WITNESSETH:

WHEREAS, Settlor is a railroad holding company that directly or indirectly controls the following freight rail common carriers: Buffalo & Pittsburgh Railroad, Inc. ("BPRR"), a Class II rail carrier operating in New York and Pennsylvania, and the following Class III rail carriers: Arkansas, Louisiana & Mississippi Railroad Company, operating in Arkansas and Louisiana; Chattahoochee Bay Railroad, Inc., operating in Georgia and Alabama; Chattahoochee Industrial Railroad, operating in Georgia; The Chattooga and Chickamauga Railway Company, operating in Tennessee and Georgia; Columbus and Greenville Railway Company, operating in Mississippi; Commonwealth Railway, Inc., operating in Virginia; Corpus Christi Terminal Railroad, Inc., operating in Texas; Dunsville and Mount Morris Railroad Company, operating in New York; First Coast Railroad, Inc., operating in Florida and Georgia; Fordyce & Princeton Railroad Company, operating in Arkansas; Genesee and Wyoming Railroad Company, operating in New York; Golden Isles Terminal Railroad, Inc., operating in Georgia; Illinois & Midland Railroad, Inc., operating in Illinois; Louisiana & Delta Railroad, Inc., operating in Louisiana; Luxapalila Valley Railroad, Inc., operating in Mississippi and Alabama; Maryland Midland Railway, Inc., operating in Maryland; Portland & Western Railroad, Inc., operating in Oregon; Rochester & Southern Railroad, Inc., operating in New York; Salt Lake City Southern Railroad Company, operating in Utah; Savannah Port Terminal Railroad Inc., operating in Georgia; South Buffalo Railway Company, operating in New York; St. Lawrence & Atlantic Railroad Company, operating in Vermont, New Hampshire and Maine, St. Lawrence & Atlantic Railroad (Quebec), Inc., operating in Vermont; Talleyrand Terminal Railroad Company, Inc., operating in Florida; Tazewell & Peoria Railroad, Inc., operating in Illinois, Utah Railway Company, operating in Colorado and Utah; Willamette and Pacific Railroad, Inc., operating in Oregon; and York Railway Company ("York"),¹ operating in Pennsylvania;

WHEREAS, Settlor also controls additional rail carriers together with two of its wholly-owned subsidiaries that are non-carrier holding companies, RP Acquisition Company One ("RP1") and RP Acquisition Company Two ("RP2"). Settlor and RP1 together control Rail Partners, L.P.² and eight Class III rail carriers formed as limited partnerships.³ Settlor and RP2

¹ Settlor also has control over Maryland and Pennsylvania, LLC and Yorkrail, LLC, two non-operating Class III rail carriers that separately hold the rail assets over which York operates.

² Rail Partners, L.P. is a non-carrier limited partnership that holds all non-managing membership interests or all limited partnership interests (as applicable) in each of the limited partnership Class III rail carriers described in footnotes 4 and 6 below. RP1 acquired the entire general partnership interest of Rail Partners, L.P.

Acquisition Sub Inc. ("GSW Sub"), that plans to acquire control of Georgia Southwestern Railroad, Inc. ("GSWR") pursuant to a Stock Purchase Agreement (the "Purchase Agreement") by and among GSW Sub, Terry R. Small ("Small") and David L. Smoot ("Smoot") of even date herewith;

WHEREAS, upon the terms and conditions set forth in the Purchase Agreement, GSW Sub will purchase from Small and Smoot ten (10) shares of common stock of GSWR, comprising all of the issued and outstanding capital stock of GSWR;

WHEREAS, Settlor will file with the Surface Transportation Board (the "Board") a petition for exemption pursuant to 49 U.S.C. § 10502 from the requirements of 49 U.S.C. § 11323 to control GSWR as a Class III rail carrier subject to Board jurisdiction;

WHEREAS, Settlor desires to isolate the control of GSWR from Settlor and any company controlled by or affiliated with Settlor by depositing all shares of GSWR into an independent irrevocable voting trust pursuant to the Board's regulations at 49 C.F.R. Part 1013, in order to avoid any allegation or assertion that Settlor is controlling or has the power to control GSWR prior to receipt of the Board's approval or exemption of the Settlor's acquisition of control of GSWR;

WHEREAS, the Trustee is willing to act as voting trustee pursuant to the terms of this Voting Trust; and

WHEREAS, capitalized used herein but not defined shall have the meanings ascribed to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and mutual undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Settlor hereby irrevocably appoints Alan R. Harris as Trustee hereunder, and Alan R. Harris hereby accepts said appointment and agrees to act as Trustee under this Voting Trust as provided herein.
2. This Voting Trust shall be irrevocable by Settlor and shall terminate only in accordance with the provisions of this Agreement.
3. This Voting Trust shall be executed simultaneously with the Purchase Agreement; however, this Voting Trust shall not become effective until, and is contingent upon, the consummation of the Contemplated Transactions ("Effective Time").
4. At the Effective Time, Settlor agrees that it will assign, transfer and deliver all of its right, title and interest in the issued and outstanding shares of capital stock of GSWR to the Trustee, and will direct that any and all additional shares of GSWR hereafter acquired by Settlor during the term of this Voting Trust be likewise assigned, transferred and delivered to the Trustee. All such shares shall be duly endorsed or accompanied by proper instruments duly executed for transfer thereof to the Trustee, with all applicable transfer taxes and fees having been paid by

Settlor, in exchange for Trust Certificates (as described in Paragraph 5 hereof). The delivery of certificates of such shares may be made at such other place as may be designated by the Trustee. All shares of GSWR at any time deposited with the Trustee hereunder are hereinafter referred to as the "Trust Stock."

5. The Trustee shall hold in trust and shall dispose of, pursuant to the terms and conditions of this Voting Trust, all Trust Stock which may now or afterwards from time to time be delivered by or for the account of the Settlor. In exchange for the Trust Stock, the Trustee shall cause to be issued and delivered to the Settlor voting trust certificates ("Trust Certificates") substantially in the form attached hereto as Exhibit A, with the blanks therein appropriately filled.
6. The Trust Certificates issued by the Trustee may be transferred on the books of the Trustee by the registered holder or holders of the Trust Certificates (each, a "Holder," together, the "Holders") upon the surrender thereof, properly endorsed by the Holder, in person or by an authorized attorney of the Holder, according to rules from time to time established for that purpose by the Trustee. Title to the Trust Certificates, when endorsed, shall, to the extent permitted by law, be transferable with the same effect as in the case of negotiable instruments. Delivery of the Trust Certificates, endorsed in blank by a Holder, shall vest title to and all rights under the Trust Certificates in the transferee thereof to the same extent and for all purposes as would delivery under like circumstances of negotiable instruments payable to bearer; *provided, however*, that the Trustee may treat the Holder of record, or, when presented endorsed in blank, the bearers, as the owners for all purposes whatsoever, and shall not be affected by any notice to the contrary; provided further, however, that the Trustee shall not be required to deliver any Trust Stock without the surrender and cancellation of the corresponding Trust Certificate(s). Except to the extent provided otherwise in Paragraph 13 hereof, every transferee of a Trust Certificate shall, upon the receipt of such properly endorsed Trust Certificate, become a party to this Voting Trust as though an original party, and shall assume all attendant rights and obligations under this Voting Trust. In connection with, and as a condition of, making or permitting any transfer or delivery of any Trust Stock or Trust Certificate under any provision of this Voting Trust, the Trustee may require the payment of a sum sufficient to pay or reimburse the Trustee for any stamp tax or other governmental charge in connection with the transaction.
7. From the Effective Time, and until such time as this Voting Trust shall terminate in accordance with the provisions in this Agreement, the Trustee, subject to the limitations contained in this Agreement, shall have the full right to vote and to execute consents with respect to the Trust Stock, and shall be duly bound to exercise such voting rights, either in person or by proxy, at all meetings of the shareholders of GSWR for any purpose, and shall possess in respect of any and all the Trust Stock, and shall be entitled to exercise, all the powers of absolute owners of the Trust Stock and all rights of every nature in respect of such Trust Stock, including the right to vote and to execute consents for every purpose and to receive distributions thereon, unless otherwise directed by a court of competent

jurisdiction. The Trustee shall not exercise the voting powers of the Trust in any way so as to cause any dependence or intercorporate relationship between Settlor or companies controlled by or affiliated with Settlor (not including GSWR), on the one hand, and GSWR or companies controlled by or affiliated with GSWR, on the other hand, other than such dealings as permitted pursuant to Paragraph 8 hereof. (The term "affiliate" or "affiliates" wherever used in this Voting Trust shall have the meaning specified in 49 U.S.C. § 11323(c)). The Trustee may not vote the Trust Stock for any transaction that would result in a violation of 49 U.S.C. § 11323; *provided, however*, that the Trustee may, with the consent of the Holder(s) representing at least two-thirds of the shares of GSWR at the time held pursuant to this Voting Trust, vote with respect to the following:

- (a) the sale, lease or exchange of all or substantially all of the property and assets or of the capital stock of GSWR to any company other than a company controlled by or affiliated with Settlor, or dissolution of GSWR; or
- (b) the consolidation or merger of GSWR with or into any company other than a company controlled by or affiliated with Settlor.

In the case of any such sale, lease, exchange, consolidation, merger or dissolution so made with the consent of the Holder(s) representing at least two-thirds of the shares of GSWR at the time held pursuant to this Voting Trust, the Trustee shall have the power to sell, exchange, surrender or otherwise dispose of all or any part of the ownership interest of GSWR at the time held in trust, pursuant to the terms of or in order to carry into effect such sale, lease, exchange, consolidation, merger or dissolution. Subject to the provisions, and until termination, of this Voting Trust, the Trustee may vote or consent, or issue proxies to vote or consent at shareholders' meetings of GSWR and otherwise, as the Trustee shall determine in his uncontrolled discretion, and no voting or other right or power with respect to the Trust Stock and other securities held in trust shall pass to any Holder or to others by or under the Trust Certificates, or by or under this Voting Trust, or by or under any other agreement.

8. Neither the Trustee, nor the director, officer, or shareholder of any company controlled by or affiliated with the Trustee, may serve as an officer or member of the board of directors of Settlor or any company controlled by or affiliated with Settlor, or be a shareholder of Settlor or any company controlled by or affiliated with Settlor, or have any direct or indirect business arrangements or dealings, financial or otherwise, with Settlor or any company controlled by or affiliated with Settlor (other than this Voting Trust), that could be construed as creating an indicium of control by Settlor over the Trustee. The Trustee has the responsibility to manage GSWR through casting his votes for GSWR's Board of Directors and to exercise the voting rights and execute consents as provided in Paragraph 7 hereof. The Trustee's duties are therefore not merely custodial in nature. Nothing in this Voting Trust shall restrict the ability of any company controlled by or affiliated with Settlor to enter into or continue commercial dealings with GSWR

in the ordinary course of business, based on arm's-length bargaining, during the term of this Voting Trust, including without limitation the following:

- (a) The provision of rail service over GSWR's rail lines by any company controlled by or affiliated with the Settlor;
 - (b) The leasing by GSWR of rolling stock or other equipment or assets or services from any company controlled by or affiliated with Settlor; and
 - (c) The provision by GSWR of such documents and information as Settlor may reasonably request in connection with presenting its position regarding control of GSWR to the Board or a court of competent jurisdiction.
9. In voting or giving directions for voting the Trust Stock, the Trustee will exercise his best judgment to elect suitable directors in the best interest of the affairs of GSWR. The Trustee, however, assumes no responsibility with respect to acts or omissions of the directors of GSWR (other than the gross negligence or willful misconduct of the Trustee himself).
10. The Trustee shall be entitled to receive reasonable and customary compensation for all services rendered by Trustee under the terms of this Agreement and shall be entitled to indemnity from Settlor against any and all expenses, claims and liabilities incurred in connection with or with respect to the performance of Trustee's duties under this Voting Trust; provided, that the indemnification of the Trustee by the Settlor shall not extend to expenses, claims or liabilities resulting from or in connection with the willful misconduct or gross negligence of the Trustee. The Trustee shall submit to Settlor quarterly invoices for services with appropriate documentation, and Settlor shall pay such statements within thirty (30) days after receipt thereof.
11. From and after the deposit of the Trust Stock with Trustee, and until the termination of this Voting Trust pursuant to the terms hereof, a Holder shall be entitled to receive, from time to time, payment of any cash distributions collected by the Trustee upon the ownership interests in GSWR represented by the Trust Certificates. Immediately following receipt of any such cash distribution, the Trustee shall pay the same over to or as directed by the transferee or Holder thereunder as then known to the Trustee.
12. In the event that any distribution other than cash is received by the Trustee, such distribution shall be held by the Trustee in accordance with the terms of this Voting Trust as though it is Trust Stock that was initially deposited with the Trustee by Settlor under this Voting Trust. With respect to such distribution, the Trustee shall issue new or additional Trust Certificates, or any applicable equivalent thereto, to the Holders entitled to receive any such distribution.
13. (a) This Voting Trust is accepted by Trustee subject to the rights hereby reserved to the Holder(s) at any time to sell or make any other disposition,

in whole or in part, of its Trust Stock, whether or not an event described in subparagraph (b) below has occurred. The Trustee will at any time upon receipt of written instructions from a Holder, designating the person or entity to whom the Holder has sold or otherwise disposed of the whole or any part of such Holder's Trust Stock, and certifying in writing that such person or entity is not a shareholder, officer or director of Settlor, or a company controlled by or affiliated with Settlor, or a shareholder, officer or director of a company controlled by or affiliated with Settlor (upon which written certification the Trustee shall be entitled to rely), immediately transfer to such person or entity therein named all of the Trustee's right, title and interest in such amount of the Trust Stock as may be set forth in such instructions and shall cooperate with such person or entity in having such Trust Stock reissued in the name of such person or entity. If such instructions result in the transfer of all of the Trust Stock subject to this Voting Trust as of the date of such instructions, then upon transfer of the Trustee's right, title and interest therein, and in the event of a sale thereof, upon delivery of the proceeds of such sale, this Voting Trust shall cease and come to an end. If such instructions relate to only a part of the Trust Stock, then this Voting Trust shall cease as to such part upon such transfer, and the receipt of proceeds in the event of sale, but shall remain in full force and effect as to the remainder of the Trust Stock. In the event of a sale of Trust Stock by a Holder, the net proceeds of such sale shall be made payable to the Trustee and upon receipt thereof the Trustee shall promptly pay or cause to be paid such net proceeds to that Holder. It is the intention of this subparagraph that no violations of 49 U.S.C. § 11323 will result from a termination of this Voting Trust.

- (b) In the event that (i) Title 49 of the United States Code or other controlling law is amended to allow Settlor to acquire control of GSWR without obtaining Board or other governmental approval or exemption, (ii) the Board by final order approves or exempts the control of GSWR by Settlor, or (iii) Settlor is entitled under the regulations of the Board to file a verified notice of exemption to control GSWR and that notice becomes effective without the need for a Voting Trust; then immediately upon the delivery of a copy of such order of the Board or exemption with respect thereto, or an opinion of independent counsel selected by the Trustee that no order of the Board or other governmental authority or exemption is required, the Trustee shall transfer to the Holder(s) or transfer upon the order of the Holder(s) as then known to the Trustee, Trustee's right, title and interest in and to all of the Trust Stock or such part as may then be held by Trustee (as provided in subparagraph (a) hereof), and upon such transfer this Voting Trust shall cease and come to an end.
- (c) In the event that (i) the Board or a court of competent jurisdiction denies Settlor authority to control GSWR and that order becomes final after judicial review or failure to appeal, (ii) the Board or a court of competent jurisdiction orders the Trustee to divest himself of the Trust Stock, and

that order becomes final after judicial review or failure to appeal, or (iii) the Holder(s) determine in light of any other final order that the Trust Stock should be sold, the Trustee shall use best efforts to dispose of the Trust Stock under the terms of the Board or court order and in accordance with any instructions of Holder(s) not inconsistent with the requirement of the terms of any Board or court order. To the extent that registration is required under the Securities Act of 1933 or any other applicable securities laws in respect of any distribution of Trust Stock as contemplated in this Agreement, the Holder(s) shall reimburse the Trustee for any expenses incurred by Trustee. The proceeds of the sale shall be distributed, on a pro rata basis, to or upon the order of the Holder(s) hereunder as then known to the Trustee. The Trustee may, in his reasonable discretion, require the surrender to Trustee of the Trust Certificates hereunder before paying to the Holder such Holder's share of the proceeds.

(d) Unless sooner terminated pursuant to any other provision herein contained, this Voting Trust shall terminate one (1) year after the day and year first written above, so long as no violation of 49 U.S.C. § 11323 will result from such termination, and provided that this Voting Trust may be extended by mutual agreement of the parties hereto pursuant to applicable state law, until such time as the ICC Termination Act of 1995 and the regulations promulgated thereunder by the Board as presently in effect shall no longer require that the Trust Stock be held in a voting trust. All Trust Stock and any other property held by the Trustee hereunder upon such termination shall be distributed to or upon the order of the Holder(s) hereunder as then known to the Trustee. The Trustee may, in his reasonable discretion, require surrender to the Trustee of the Trust Certificates hereunder before the release or transfer of the Trust Stock evidenced thereby. Upon termination of this Voting Trust, the Holder(s)' respective rights, titles and interests in and to the Trust Stock then held by the Trustee shall be transferred to such Holder(s) in accordance with the terms and conditions of this Voting Trust and upon such transfer, this Voting Trust shall cease and come to an end.

(e) The Trustee shall promptly inform the Board of any transfer or disposition of the Trust Stock pursuant to this Paragraph 13.

14. The Trustee shall not, by reason of this Voting Trust, or by the exercise of any powers or duties pursuant to this Voting Trust, incur any responsibility as shareholder, manager, trustee or otherwise by reason of any error of judgment, or mistake of law or fact, or of any omission of any agent or attorney, or of any misconstruction of this Voting Trust, or for any action of any sort taken or omitted or believed by the Trustee to be in accordance with the terms of this Voting Trust or otherwise, except for the willful misconduct or gross negligence of the Trustee. The Trustee shall not be responsible for the sufficiency or accuracy of the form, execution, validity or genuineness of the Trust Stock or of any endorsement thereof, or for any lack of endorsement thereof, or for any description therein, nor

shall the Trustee be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such Trust Stock or endorsement of the Trust Stock, except for the execution and delivery of this Voting Trust by the Trustee. Settlor agrees that it will at all times protect, indemnify and save harmless the Trustee from any loss, cost, or expense of any kind or character whatsoever in connection with this Voting Trust except those, if any, arising from or in connection with the gross negligence or willful misconduct of the Trustee, and, except for such costs and expenses arising from or in connection with the gross negligence or willful misconduct of the Trustee, (i) Settlor will at all times undertake, assume full responsibility for, and pay all costs and expenses of any suit or litigation of any character, with respect to the Trust Stock or this Voting Trust, and (ii) if the Trustee shall be made a party thereto, Settlor will pay all costs and expenses, including reasonable attorneys' fees, to which the Trustee may be subject by reason thereof. The Trustee may consult with counsel, and the opinion of such counsel shall constitute full and complete authorization and protection in respect of any action taken or omitted or suffered by the Trustee hereunder in good faith and in accordance with such opinion. Notwithstanding any provision herein to the contrary, and without limiting the foregoing, Settlor shall indemnify and save harmless Trustee from and against any and all liability, losses and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with claims asserted against GSWR or Settlor, or related to the ownership or operation of GSWR's properties, under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 5105 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), and the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), each as may be amended from time to time, and analogous state or local laws (and regulations and orders issued thereunder); *provided*, that this indemnity shall not apply to the extent that such liability, loss or expense arises out of or in connection with the gross negligence or willful misconduct of the Trustee.

15. The Trustee may at any time or from time to time appoint an agent or agents and may delegate to such agent or agents the performance of any administrative duty of the Trustee. The Trustee may at any time remove any agent so appointed by the Trustee and appoint a new agent to carry out the purposes herein.
16. The Trustee may at any time resign by delivering to Settlor his resignation in writing, such resignation to take effect the earlier of thirty (30) days after the date that such notice is sent, or the date of the appointment of a successor trustee. The Trustee shall cease to act as Trustee hereunder effective upon the appointment of a successor trustee as hereinafter provided. Upon receiving notice of resignation, Settlor shall within fifteen (15) days appoint a successor trustee, who shall satisfy the requirements of Paragraph 8 hereof. If no successor trustee shall have been appointed and shall have accepted the appointment within twenty (20) days after such notice of resignation, the resigning Trustee may petition any federal court for

the appointment of a successor trustee consistent with the terms and conditions of this Agreement. In the event of the Trustee's death or his inability to perform his duties under this Agreement, the Settlor shall, within fifteen (15) days after such death or inability to perform, appoint a successor trustee who shall satisfy the requirements of Paragraph 8 hereof. Upon written assumption by the successor trustee of the Trustee's powers and duties hereunder, Settlor shall be notified of such assumption, whereupon the Trustee shall be discharged of his powers and duties hereunder and the successor trustee shall become vested therewith. In the event of any material violation of the terms and conditions of this Voting Trust by the Trustee, the Trustee shall become disqualified from acting as Trustee hereunder as soon as a successor trustee hereunder shall have been selected in the manner provided by this paragraph.

17. Except as provided in this Agreement, the Trustee herein appointed, or any successor trustee, shall not, in the Trustee's individual capacity or otherwise, buy, sell or deal in the shares of GSWR, or the shares or membership or partnership interests, as applicable, of any company affiliated with or controlled by Settlor.
18. The Trustee accepts the powers and duties under this Voting Trust subject to all the terms, conditions and reservations contained in this Agreement and agrees to exercise the powers and perform the duties of Trustee as set forth in this Agreement; *provided*, however, that nothing contained herein shall be construed to prevent the Trustee from resigning as Trustee pursuant to Paragraph 16 hereof.
19. All notices, demands, requests or other communications that may be or are required to be given, served or sent to the Trustee or Settlor pursuant to this Voting Trust shall be in writing and shall be deemed to have been properly given or sent by mailing by registered or certified mail, return receipt required, or by a national overnight delivery service, appropriately addressed to the Trustee or Settlor, as applicable, as follows:

If to the Trustee:

Alan R. Harris
2918 Malone Drive
Panama City, FL 32405

If to Settlor:

Gencsee & Wyoming Inc.
66 Field Point Road
Greenwich, CT 06830
Attn: General Counsel

With copies to:

K&L Gates LLP
1601 K Street, NW
Washington, DC 20006
Attn: Thomas F. Cooney, Esq.

Each notice, demand, request or communication which shall be mailed by registered or certified mail, or sent by national overnight delivery service, in the manner aforesaid shall be deemed sufficiently given, served or sent for all purposes at the time such notice, demand, request or communication shall be either received by the addressee or refused by the addressee upon presentation. Upon Trustee's receipt of a notice to a Holder other than Settlor, or in the event the Trustee is required to send notice to a Holder other than Settlor, the Trustee shall forward or send such notice to the Holder of record at the last known address of such Holder listed on the books maintained by the Trustee.

20. Copies of this Voting Trust shall be on file in the office of the Trustee and shall be open to any officer of Settlor or any other Holder daily during normal business hours.
21. In order to permit Trustee to perform the duties and obligations of this Voting Trust, Settlor shall provide Trustee with all corporate records and Board orders concerning the Trust Stock promptly upon Settlor's receipt or creation of such documents.
22. If, at any time, the Trustee is of the opinion that any tax or governmental charge is payable with respect to any Trust Stock held by the Trustee or in respect of any distributions or other rights arising from the subject matter of this Voting Trust, the Trustee may, but shall not be required to, pay such tax or governmental charge. The Trustee shall have a first lien, in the sum of any amount so paid, along with interest at a rate of six percent (6%) per annum, against the Trust Stock held by the Trustee and/or against any distributions or other rights arising from the subject matter of this Voting Trust, and may be satisfied therefrom.
23. If any term or provision of this Voting Trust is illegal, invalid or unenforceable under or inconsistent with present or future law, including, but not limited to, the ICC Termination Act of 1995 and regulations promulgated thereunder by the Board, as may be in effect at that time, then it is the intention of the parties hereto that the remainder of this Voting Trust shall not be affected thereby and shall be valid and shall be enforced to the fullest extent permitted by law. In the event that the Board shall at any time hereafter by final order find that compliance with law requires any other or different action by the Trustee than is provided herein, the Trustee shall, upon receipt of such final order, act in accordance with such final order instead of the provisions of this Voting Trust.
24. This Voting Trust may be executed in counterparts, each of which shall be

deemed to be an original and all of which together shall be deemed to be one and the same instrument.

25. This Voting Trust shall be governed and construed in accordance with the laws of the State of Delaware.
26. This Voting Trust may from time to time be modified or amended by agreement executed by the Trustee and Settlor:
 - (a) Pursuant to an order of the Board;
 - (b) With prior approval of the Board; or
 - (c) Upon receipt of an opinion of counsel satisfactory to Trustee and Settlor that an order of the Board approving such modification or amendment is not required and that such modification or amendment is consistent with the Board's regulations governing voting trusts as set forth in 49 C.F.R. Part 1013 or any successor provision.
27. This Voting Trust shall be binding upon the successors and assigns of the parties hereto.
28. Once the Settlor has caused the Trust Stock to be deposited with the Trustee, all references to "Settlor" in this Agreement shall be deemed to include any subsequent Holders.

IN WITNESS WHEREOF, the parties hereto have executed this Voting Trust as of the date first written above.

TRUSTEE:

SETTLOR:



Alan R. Harris

GENESEE & WYOMING INC.

By: Matthew O. Walsh

Its: Senior Vice President

EXHIBIT A

No. _____
_____ Shares

VOTING TRUST CERTIFICATE

FOR

OWNERSHIP INTEREST OF

THIS IS TO CERTIFY that Genesee & Wyoming Inc. will be entitled, on the surrender of this Certificate, to receive on the termination of this Voting Trust Agreement ("**Voting Trust**") hereinafter referred to, or otherwise as provided in Paragraph 13 of the Voting Trust, all right, title and interest in a certificate or certificates for [_____] (_____) shares of common stock of Georgia Southwestern Railroad, Inc. ("**GSWR**"). This Certificate is issued pursuant to the Voting Trust, dated as of [_____] , 2008, by and between Genesee & Wyoming Inc., a Delaware corporation ("**Settlor**"), and Alan R. Harris ("**Trustee**"). A copy of this Voting Trust is on file in the office of the Trustee, and open to inspection by the holder hereof during normal business hours. This Voting Trust, unless earlier terminated or extended pursuant to the terms thereof, will terminate one year from the date on which it was made, as shown above, so long as no violation of 49 U.S.C. § 11323 will result from such termination.

The holder of this Certificate shall be entitled to the benefits of this Voting Trust, including the right to payments equal to the cash distributions, if any, paid by GSWR on a pro rata basis with respect to the shares represented by this Certificate.

This Certificate shall be transferable only on the books of the undersigned Trustee or any successor, to be kept by such Trustee or successor, upon surrender hereof by the registered holder in person or by an attorney duly authorized in accordance with the provisions of this Voting Trust, and until so transferred, the Trustee may treat the registered holder as the owner of this Certificate for all purposes whatsoever, unaffected by any notice to the contrary.

By accepting this Certificate, the holder hereof assents to all provisions of, and

