

GENESEE & WYOMING INC  
Form DEF 14A  
April 17, 2009  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**  
**SCHEDULE 14A**  
**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF**  
**THE SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant   
Check the appropriate box:

Filed by a Party other than the Registrant

Preliminary Proxy statement

**Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

Definitive Proxy statement

Definitive Additional Materials

Soliciting Material Pursuant to Section 240.14a-12

**GENESEE & WYOMING INC.**

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement if other than Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

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Fee computed on table below per the Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

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(2) Aggregate number of securities to which transaction applies:

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(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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(4) Proposed maximum aggregate value of transaction:

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(5) Total fee paid:

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Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

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(2) Form, Schedule or Registration Statement No.:

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(3) Filing Party:

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(4) Date Filed:

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**GENESEE & WYOMING INC.**

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**May 27, 2009**

The annual meeting of stockholders of Genesee & Wyoming Inc. (the *Company ; we ; us or our* ) will be held at the Hyatt Regency Greenwich, 1800 East Putnam Avenue, Old Greenwich, Connecticut 06870, on May 27, 2009, at 10:00 a.m., local time, for the following purposes:

to elect the two directors listed herein;

to ratify the selection of PricewaterhouseCoopers LLP ( *PwC* ) as our independent registered public accounting firm for our fiscal year ending December 31, 2009; and

to transact such other business as may properly come before our annual meeting, or any adjournments or postponements of the meeting.

The Board of Directors of the Company has fixed the close of business on April 1, 2009 as the record date for the determination of stockholders entitled to notice of and to vote at our annual meeting, and any adjournments or postponements of the meeting.

**To be sure that your shares are properly represented at our annual meeting, whether you attend or not, please complete, sign, date and promptly mail the enclosed proxy card in the enclosed envelope, or if you hold shares in street name, follow the instructions on the enclosed proxy card for voting by telephone or through the internet. If your shares are held in the name of a bank, broker or other holder of record, their procedures should be described on the voting form they send to you.**

Along with the attached proxy statement for our annual meeting, we are enclosing our annual report to stockholders, which includes our Form 10-K for our fiscal year ended December 31, 2008 and our related audited financial statements (the *Annual Report* ). This proxy statement and proxy card are being mailed to stockholders on or about April 17, 2009.

BY ORDER OF THE BOARD OF DIRECTORS

Allison M. Fergus

Secretary

April 17, 2009

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**GENESEE & WYOMING INC.**

**Principal Executive Offices:**

**66 Field Point Road**

**Greenwich, Connecticut 06830**

**PROXY STATEMENT**

**Our Board of Directors, or the Board, is soliciting proxies to be voted at the annual meeting of stockholders to be held at the Hyatt Regency Greenwich, 1800 East Putnam Avenue, Old Greenwich, Connecticut 06870, on May 27, 2009, at 10:00 a.m., local time, or at any adjournments or postponements of the annual meeting.**

This proxy statement and the enclosed proxy card are first being mailed to you and other stockholders on or about April 17, 2009.

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**GENERAL INFORMATION**

**Why am I receiving this proxy statement?**

Our Board is soliciting proxies for our annual meeting and we will bear the cost of this solicitation. You are receiving this proxy statement because you own shares of our stock as of the close of business on April 1, 2009. Your ownership of shares on that date entitles you to vote at our annual meeting. By using the enclosed proxy card, or by following the instructions on the enclosed proxy card for voting by telephone or through the internet, you are able to vote whether or not you attend our annual meeting. This proxy statement describes the matters on which we would like you to vote and provides information on those matters so that you can make an informed decision when you do vote.

**What will I be voting on?**

to elect the two directors listed herein (see page 8);

to ratify the selection of PwC as our independent registered public accounting firm for our fiscal year ending December 31, 2009 (see page 56); and

to transact such other business as may properly come before our annual meeting or any adjournments or postponements of the meeting.

**How do I vote?**

You can vote either in person at our annual meeting or by proxy without attending our annual meeting. We urge you to vote by proxy even if you plan to attend our annual meeting so that we will know as soon as possible that enough votes will be present for us to hold the annual meeting. If you attend the annual meeting in person, you may vote at the meeting and your proxy will not be counted. You should follow the instructions set forth on the proxy card, being sure to complete it, to sign it and to mail it in the enclosed postage-paid envelope. In addition, you may also be able to vote by telephone or through the internet. Please consult your proxy card to determine if telephonic or electronic voting are available to you.

If your shares are held in street name, please refer to the information forwarded to you by your bank, broker or other holder of record for instructions on what you must do in order to vote your shares.

**What is the difference between holding shares as a stockholder of record and as a beneficial owner?**

If your shares are registered directly in your name with our transfer agent, National City Bank, you are considered, with respect to those shares, the stockholder of record. We have sent the notice of annual meeting, proxy statement, annual report and proxy card directly to you.

If your shares are held in a stock brokerage account or by a bank or other holder of record, you are considered the beneficial owner of shares held in street name. The notice of annual meeting, proxy statement, annual report and proxy card have been forwarded to you by your broker, bank or other holder of record who is considered, with respect to those shares, the stockholder of record. As the beneficial owner, you have the right to direct your broker, bank or other holder of record on how to vote your shares by using the voting instruction card included in the mailing or by following their instructions for voting.

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### **Can I vote by telephone or through the internet?**

If you are a stockholder of record or a participant in the employee stock purchase plan, you may transmit voting instructions by telephone or through the internet by following the instructions on the enclosed proxy card. The deadline for transmitting voting instructions by telephone or through the internet is 11:59 p.m., Eastern Daylight Time, on Tuesday, May 26, 2009. If your shares are held in street name, please contact your bank, broker or other holder of record to determine whether you will be able to transmit voting instructions by telephone or through the internet.

### **How many votes must be present to hold the meeting?**

The holders of a majority of the voting power of the Company's Class A common stock, par value \$0.01 per share ( *Class A Common Stock* ) and Class B common stock, par value \$0.01 per share ( *Class B Common Stock* ) must be present in person or by proxy to hold our annual meeting.

### **Can I change or revoke my vote?**

Yes. If you are a stockholder of record or a participant in the employee stock purchase plan, you may change your vote at any time before your proxy is voted. The last vote cast is what counts. To change your vote, you must use the same means as you did to originally cast your vote, unless you vote in person at our annual meeting:

if you voted by telephone or through the internet, follow the same vote by telephone or vote by internet instructions on the enclosed proxy card; or

if you voted by mail, send written notice to our Secretary at the address set forth in this proxy statement.

If your shares are held in street name, please refer to the information forwarded to you by your bank, broker or other holder of record for procedures on revoking or changing your proxy vote.

### **How many votes do I have?**

If you are a holder of our Class A Common Stock, then you are entitled to one vote per share of Class A Common Stock that you held as of the close of business on April 1, 2009 for the election of each director and to one vote per share on each other matter presented at the annual meeting. If you are a holder of our Class B Common Stock, then you are entitled to ten votes per share of Class B Common Stock that you held as of the close of business on April 1, 2009 for the election of each director and to ten votes per share on each other matter presented at the annual meeting. All matters to be voted on at our annual meeting will be voted on by the holders of our Class A Common Stock and Class B Common Stock, voting together as a single class.

### **How many shares are entitled to vote?**

As of the close of business on April 1, 2009, there were 33,505,410 shares of our Class A Common Stock issued, outstanding, and entitled to vote and 2,558,790 shares of our Class B Common Stock issued, outstanding, and entitled to vote.

### **How many votes are required for the proposals to pass?**

Directors are elected by a plurality vote, which means that the two director nominees with the greatest number of votes cast, even if less than a majority, will be elected. The proposal to ratify the

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selection of PwC as our independent registered public accounting firm requires the approval of a majority of the shares present, in person or by proxy, and entitled to vote on the matter.

### **What if I decide to abstain?**

Abstentions will count as shares present for determining if a quorum is present at the annual meeting. Abstentions related to a proposal other than the election of directors will count as a no vote. Abstentions are inapplicable in the context of the election of directors because directors are elected by a plurality vote.

### **What if I do not specify a choice for a matter when returning a proxy?**

Stockholders should specify their choice for each matter on the enclosed proxy card. If no specific instructions are given, proxies which are signed and returned will be voted FOR the election of each of the director nominees, FOR the proposal to ratify the appointment of PwC as our independent registered public accounting firm for our fiscal year ending December 31, 2009, and in accordance with the discretion of the holders of the proxy with respect to all other matters that properly come before our annual meeting or any adjournment or postponement thereof.

### **What if I don't return my proxy card and don't attend our annual meeting?**

If you are the stockholder of record (that is, your shares are registered in your own name with our transfer agent) and you do not vote your shares, your shares will not be voted. If your shares are held in street name, and you don't give your bank, broker or other holder of record specific voting instructions for your shares, we believe that under rules of the New York Stock Exchange ( *NYSE* ), your recordholder can vote your shares FOR the election of directors and FOR the ratification of the selection of PwC as our independent registered public accounting firm for our fiscal year ending December 31, 2009. For certain other proposals, if you don't give your recordholder specific instructions, your recordholder does not have discretionary authority to vote your shares and the votes with respect to your shares will be categorized as broker non-votes. Broker non-votes will be counted as present for purposes of determining whether enough votes are present to hold our annual meeting; however, a broker non-vote will have the effect of a no vote on proposals that require a specified percentage of the outstanding stock for approval and will have no effect on proposals that require a specified percentage of votes cast at such meeting for approval.

### **What happens if a nominee for director declines or is unable to accept election?**

If you vote by proxy, and if unforeseen circumstances make it necessary or desirable for our Board to substitute another person for a director nominee, we will vote your shares for that other person.

### **Will anyone contact me regarding this vote?**

No arrangements or contracts have been made with any proxy solicitors as of the date of this proxy statement, although we reserve the right to engage solicitors if we deem them necessary. Such solicitations may be made by mail, telephone, facsimile, e-mail or personal interviews.

### **Will the annual meeting be webcast?**

Our annual meeting will not be webcast.

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**What do I need to do if I want to attend the annual meeting?**

You do not need to make a reservation to attend the annual meeting. However, please note that you will need to demonstrate that you were a stockholder on the record date to be admitted to the meeting. If your shares are held in the name of your bank, broker or other holder of record, you will need to bring evidence of your stock ownership. If you do not have proof that you owned our stock as of the record date, you may not be admitted to the meeting. Attendance at the annual meeting is limited to our stockholders of record as of the record date, members of their immediate families or their named representatives. We reserve the right to limit the number of representatives who may attend the meeting. Directions to the meeting are set forth under Notice of Internet Availability of Proxy Materials.



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**ANNUAL REPORT**

**Will I receive a copy of the Annual Report?**

We have enclosed our Annual Report with this proxy statement. The Annual Report includes our audited financial statements for our fiscal year ended December 31, 2008, along with other financial information about our Company, which we urge you to read carefully.

**How can I receive a copy of the Form 10-K?**

Our Form 10-K is included in our Annual Report, which accompanies this proxy statement.

You can also obtain, free of charge, a copy of our Form 10-K by:

accessing the SEC Filings section of our Internet site at [www.gwrr.com](http://www.gwrr.com), by clicking on the Investors link;

writing to us at Genesee & Wyoming Inc., Corporate Communications, 66 Field Point Road, Greenwich, CT 06830; or

telephoning us at: (203) 629-3722.

You can also obtain a copy of our Form 10-K and other periodic filings that we make with the United States Securities and Exchange Commission (SEC) from the SEC's EDGAR database at [www.sec.gov](http://www.sec.gov).

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**PROPOSAL ONE:**

**ELECTION OF DIRECTORS**

Our by-laws allow us to set the size of our Board to be between three and 15 directors, and currently our Board is composed of nine director positions. Our Restated Certificate of Incorporation provides for a classified Board, consisting of three classes of directors, with each class serving staggered three-year terms. As a result, only a portion of our Board is elected each year. The two directors identified below, Messrs. Hurley and Scannell, are to be elected by our stockholders at our upcoming annual meeting, each to hold office for a three-year term expiring in 2012, or until their respective successors are duly elected and qualified. In light of Mr. Young nearing the Company's mandatory retirement age, he decided not to stand for re-election as a director at our upcoming annual meeting. Mr. Young will retire from the Board and the Governance Committee, effective as of May 27, 2009, the date of our upcoming annual meeting.

**Our Board of Directors unanimously recommends that stockholders vote FOR the election of each of David C. Hurley and Peter O. Scannell.**

*Proposed For Election as Director*

*for a Three-Year Term Expiring in 2012*

**Name and Age on March 31, 2009**

**David C. Hurley**

Age 68

Director since 2005

**Principal Occupation, Recent Business Experience and Other Directorships**

*Principal Occupation:* Vice Chairman of PrivatAir Holdings, SA, a provider of corporate aircraft and aircraft management, since 2003

*Recent Business Experience:* Chief Executive Officer of PrivatAir Holdings, SA, which acquired Flight Services Group, from 1999 to 2003; Founder, Chairman, President and Chief Executive Officer of Flight Services Group from 1983 to 1999

*Other Directorships:*

Hexcel Corporation Audit Committee Member

ExelTech Aerospace Governance and Human Resources Committee Member

Applied Energetics Governance and Nominating Committee Member

Genesis Lease Limited Audit Committee Member, Nominating and Corporate Governance Committee Member and Compensation Committee Chairman

**Peter O. Scannell**

Age 50

Director since 2003

*Principal Occupation:* Founder and Managing General Partner of Rockwood Holdings LP, a private investment firm focused on the acquisition and development of operating businesses, since 1986

*Recent Business Experience:* Chairman and Chief Executive Officer of Rockwood Service Corporation, a materials testing and inspection firm, since 1990; Chairman and Chief Executive Officer of Kane Holding Company, a manufacturer of architectural products, since 1989

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Unless authority to vote for one or more of the nominees is specifically withheld according to the instructions, proxies in the enclosed form will be voted **FOR** the election of Messrs. Hurley and Scannell. Our Board does not contemplate that any of the nominees will be unable to serve as a director, but if that contingency should occur prior to the voting of the proxies, the persons named in the enclosed proxy card reserve the right to vote for such substitute nominee or nominees as they, in their discretion, may determine.

Messrs. Hurley and Scannell were previously elected by our stockholders in 2006.

***Directors Whose Terms Do Not Expire at the Annual Meeting***

The following table sets forth certain information with respect to each of our directors whose term in office does not expire at the annual meeting.

***Terms Expiring at Annual Meeting in 2010***

**Name and Age on March 31, 2009**

**Philip J. Ringo**

Age 67

Director since 1978

**Principal Occupation, Recent Business Experience and Other Directorships**

*Principal Occupation:* Chairman and Chief Executive Officer of RubberNetwork.com, LLC, a tire and rubber industry strategic sourcing and technology consortium, since June 2001

*Recent Business Experience:* Consultant to ChemConnect, Inc., an operator of an electronic marketplace for buyers and sellers of chemicals, feedstocks and plastics from January 2001 to May 2001; President and Chief Operating Officer of ChemConnect, Inc. from March 1999 to January 2001; President and Chief Executive Officer of Chemical Leaman Tank Lines Inc., a trucking firm, from 1995 to 1998; President and Chief Operating Officer of The Morgan Group, Inc. and Chairman and Chief Executive Officer of Morgan Drive Away, Inc., a common and contract carrier for the manufactured housing and recreational vehicle industries, from 1992 to 1995

*Other Directorships:*

Internet Capital Group Nominating and Governance Committee Member and Audit Committee Member

Trimac Equipment Leasing, Inc. Compensation Committee Member and Audit Committee Chairman

**Mark A. Scudder**

Age 46

Director since 2003

*Principal Occupation:* President of Scudder Law Firm, P.C., L.L.O. since December 2002

*Recent Business Experience:* Attorney with Scudder Law Firm since 1993 representing public and private companies in mergers and acquisitions, financing transactions and general corporate matters, with a particular focus on the U.S. trucking industry



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**Name and Age on March 31, 2009**

**Øivind Lorentzen III**

Age 58

Director since 2006

**Principal Occupation, Recent Business Experience and Other Directorships**

*Principal Occupation:* President and Chief Executive Officer of Northern Navigation International, Ltd. since June 1990

*Recent Business Experience:* Founded Northern Navigation in 1990; Chairman, NFC Shipping Funds from 2001 - 2008

*Other Directorships:*

SEACOR Holdings Inc. Lead Director and Chairman of the Audit Committee

Blue Danube Inc.

*Terms Expiring at Annual Meeting in 2011*

**Name and Age on March 31, 2009**

**Mortimer B. Fuller III**

Age 66

Director since 1973

**Principal Occupation, Recent Business Experience and Other Directorships**

*Principal Occupation:* Executive Chairman of Genesee & Wyoming Inc. since 2007

*Recent Business Experience:* Chairman and Chief Executive Officer of Genesee & Wyoming Inc. from 1977 to 2007 and President of Genesee & Wyoming Inc. from 1977 to 1997

**John C. Hellmann**

Age 38

Director since 2007

*Principal Occupation:* Chief Executive Officer ( *CEO* ) of Genesee & Wyoming Inc. since 2007 and President since 2005

*Recent Business Experience:* Chief Financial Officer of Genesee & Wyoming Inc. from 2000 to 2005

*Other Directorships:*

Association of American Railroads

**Robert M. Melzer**

Age 68

*Principal Occupation:* Retired

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Director since 1997

*Recent Business Experience:* President and Chief Executive Officer of Property Capital Trust (real estate investment trust) from 1992 to 1999; Chief Financial Officer of Property Capital Trust from 1990 to 1996

*Other Directorships:*

The Cronos Group Audit Committee Chairman, Special Litigation Committee Member and Transaction Committee Member until August 2007

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**RELATED PERSON TRANSACTIONS AND OTHER INFORMATION**

**Non-Management Directors**

**Commercial Relationship with Sperry Rail.** Mr. Scannell, a current director whose term expires in 2009, is the Chairman and Chief Executive Officer of Rockwood Service Corporation. One of Rockwood Service Corporation's subsidiaries, Sperry Rail, Inc. ( *Sperry Rail* ), provides rail flaw inspection services to railroads, including to a number of our subsidiaries. Mr. Scannell is also a significant indirect stockholder of Sperry Rail. For the year ended December 31, 2008, the billings for those services were approximately \$423,192 which, according to representations made by Mr. Scannell, accounted for less than 1% of the consolidated gross revenue of Sperry Rail.

**Other**

**Class B Stockholders Agreement.** The Company, Mortimer B. Fuller III, our Executive Chairman, our officers with policy-making functions who are subject to the reporting obligations of Section 16 of the Securities Exchange Act of 1934, as amended (the *Exchange Act* ), as set forth on page 24 (collectively, the *Executive Officers* ), and all holders of our Class B Common Stock are parties to a Class B Stockholders Agreement dated as of May 20, 1996. Under the agreement, if a party proposes to transfer shares of Class B Common Stock in a transaction that would result in the automatic conversion of those shares into shares of Class A Common Stock, the Executive Officers have the right to purchase up to an aggregate of 50% of those shares, and Mr. Fuller has the right to purchase the balance, all at the then-current market price of the Class A Common Stock. If Mr. Fuller does not purchase the entire balance of the shares, the Executive Officers, excluding Mr. Fuller, have the right to purchase the shares that remain. In the event the employment of any Executive Officer, excluding Mr. Fuller, terminates, these purchase rights also apply to any Class B Common Stock held by the Executive Officer. The effect of this agreement is to concentrate ownership of the Class B Common Stock, which entitles the holders thereof to ten times the voting power, per share of the Class A Common Stock, in the hands of our management, particularly Mr. Fuller. See Security Ownership of Certain Beneficial Owners and Management.

**Policies and Procedures for Review, Approval or Ratification of Related Person Transactions**

The Board adopted a written Related Person Transaction Policy which requires (1) the review and approval, or ratification, by the Governance Committee, or by a Sub-Committee of the Board composed solely of independent directors who are disinterested, of all related person transactions that would be required to be disclosed pursuant to the rules and regulations of the SEC; and (2) that any employment relationship or employment transaction involving an Executive Officer and any related compensation to such Executive Officer must be approved by the Compensation Committee of the Board of Directors or recommended by the Compensation Committee to the Board for its approval. In connection with the review and approval or ratification of related person transactions, management must disclose the material terms of the transaction, including the approximate dollar value associated with the transaction and the nature of the related person's interest in the transaction. Information with respect to compliance with any applicable agreements and any disclosure obligations must also be provided. To the extent the transaction involves an independent director, consideration must also be given, as applicable, to the NYSE listing standards, our categorical standards of independence included in our Corporate Governance Guidelines, the requirements of Internal Revenue Code ( *IRC* ) Section 162(m) and other relevant rules under the Exchange Act related to independence.



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**CORPORATE GOVERNANCE**

**Director Independence**

*General*

Pursuant to the General Corporation Law of the State of Delaware, the state under which we are organized, and our by-laws, our business, property and affairs are managed by or under the direction of our Board. Members of our Board are kept informed of our business through discussions with our Executive Chairman, our CEO and other officers, by reviewing materials provided to them by management, by participating in meetings of the Board and its committees and by visiting various facilities and operations.

*Corporate Governance Principles and Categorical Independence Standards*

In order to provide guidance on the composition and function of our governing body, our Board adopted our Corporate Governance Principles, which include, among other things, our categorical standards of director independence. These categorical independence standards establish certain relationships that our Board, in its judgment, has deemed to be material or immaterial for purposes of assessing a director's independence. In the event a director maintains any relationship with us that is not addressed in these standards, the independent members of our Board or the Governance Committee, as applicable, will determine whether such relationship is material and whether such relationship would compromise the director's independence under our Related Person Transaction Policy. The criteria applied by the Board in determining a director's independence also comport with the NYSE standards regarding director independence. Our Corporate Governance Principles, which include our categorical independence standards, are attached as Annex I to this proxy statement. You may also find a link to our Corporate Governance Principles on our website at [www.gwrr.com](http://www.gwrr.com) under the Governance link. We will provide a printed copy of the Corporate Governance Principles free of charge to any stockholder or interested party upon request to our Company's Corporate Communications department.

*Evaluations of Director Independence*

The Governance Committee undertook its annual review of director independence and reviewed with our Board its findings. During this review, our Board considered transactions and relationships between each director and nominee (or members of their immediate families) and our Company, its subsidiaries and affiliates, including those reported under Related Person Transactions And Other Information above. Our Board also examined transactions and relationships between directors, the nominees, or their affiliates and members of our senior management. The purpose of this review was to determine whether any such relationships or transactions compromised a director's independence.

As a result of this review, our Board affirmatively determined that all of our directors and nominees for director are independent, with the exception of Mortimer B. Fuller III and John C. Hellmann. By virtue of their positions as executive officers of our Company, Messrs. Fuller and Hellmann are not considered independent directors.

In reaching its conclusion regarding each of the other directors and nominees for director, our Board considered that our Company and its subsidiaries in the ordinary course of business purchase products and services from Sperry Rail and that Mr. Scannell serves as an executive officer of the parent company of Sperry Rail and is also a significant indirect stockholder of Sperry Rail. As

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discussed above, the amount paid to, received or otherwise claimed from Sperry Rail was less than 1% of Sperry Rail's 2008 consolidated revenues. Our Board also determined that the Sperry Rail relationship was not otherwise material to us or to Mr. Scannell personally and therefore determined that this relationship did not impair the independence of Mr. Scannell.

Our Board has also determined that all of the directors who serve on board committees are independent for purposes of Section 303A of the Listed Company Manual of the NYSE, that the members of the Audit Committee are also independent for purposes of Section 10A(m)(3) of the Exchange Act and that the members of the Compensation Committee are outside directors within the meaning of Section 162(m) of the IRC and non-employee directors for purposes of Rule 16b-3 of the Exchange Act.

**Committees of the Board****General**

Our Board has three standing committees: an Audit Committee, a Compensation Committee and a Governance Committee. The following table shows the membership of each of our Board's standing committees and the number of meetings held by each of those committees during 2008:

<b>Director</b>	<b>Audit Committee</b>	<b>Compensation Committee</b>	<b>Governance Committee</b>
David C. Hurley		X	
Øivind Lorentzen III	Chair		
Robert M. Melzer	X	X	
Philip J. Ringo	X		X
Peter O. Scannell			Chair
Mark A. Scudder		Chair	
M. Douglas Young			X
2008 Meetings	10*	9	4

\*Includes quarterly conference calls with management and our independent registered public accounting firm to review our earnings releases and reports on Form 10-Q and Form 10-K prior to their filing.

**Committee Charters**

Our Board has adopted a charter for each of the three standing committees that addresses the composition and function of each committee. You may find links to these materials on our website at [www.gwrr.com](http://www.gwrr.com) under the Governance link, and we will provide a printed copy of these materials, free of charge, to any stockholder who requests it by contacting the Company's Corporate Communications department.

**Audit Committee**

The Audit Committee assists our Board in fulfilling its responsibility relating to the oversight of: (1) the quality and integrity of our financial statements, (2) our compliance with legal and regulatory requirements, (3) our independent registered public accounting firm's qualifications and independence, and (4) the performance of our internal audit function and independent registered public accounting firm. The Report of the Audit Committee relating to 2008 appears on page 55 of this proxy statement. Our Board has determined that each of the members of the Audit Committee is financially literate.

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within the meaning of the listing standards of the NYSE. In addition, our Board has determined that Mr. Melzer qualifies as an Audit Committee Financial Expert as defined by applicable SEC regulations and that he has accounting or related financial management expertise within the meaning of the listing standards of the NYSE. The Board reached its conclusion as to Mr. Melzer's qualification based on, among other things, his education and experience, most notably his service as the Chief Financial Officer of Property Capital Trust from 1990 through 1996, and his previous experience as an audit committee chairman at another public company.

### ***Compensation Committee***

The Compensation Committee discharges the responsibilities of our Board relating to the oversight of our compensation program and the compensation of our Executive Officers and other key personnel. The Compensation Committee's report relating to 2008 appears on page 38 of this proxy statement. Each of the members of the Compensation Committee is independent for purposes of the NYSE Rules, an outside director within the meaning of Section 162(m) of the IRC and a non-employee director within the meaning of Exchange Act Rule 16b-3. Pursuant to the Compensation Committee Charter, the Compensation Committee is entitled to delegate any or all of its responsibilities to a subcommittee composed of members of the Compensation Committee. The Compensation Committee has delegated authority to the CEO to approve grants to newly-hired or promoted employees who are not Executive Officers, subject to an option grant fair value limit of \$200,000. The Compensation Committee reports and makes recommendations to the Board regarding executive compensation policies and our compensation program, when necessary, and informs the other members of the Board about its decisions regarding compensation for the CEO and other Executive Officers. The Compensation Committee also has the authority under its charter to retain outside consultants or advisors, as it deems necessary or advisable. Additional information with respect to the Compensation Committee's retention of outside advisors is set forth under Executive Compensation Compensation Discussion and Analysis beginning on page 26 of this proxy statement.

### ***Compensation Committee Processes and Procedures***

In performing its duties, the Compensation Committee meets periodically with our CEO. Our CEO participates in discussions of the Compensation Committee and makes recommendations, but he does not vote or otherwise participate in the Compensation Committee's ultimate determinations. Our Board believes that it is prudent to have our CEO participate in these determinations because his evaluations and recommendations with respect to the compensation and benefits paid to Executive Officers other than himself are extremely valuable to the Compensation Committee. Additional information with respect to the participation of our CEO with respect to matters that are the responsibility of the Compensation Committee is set forth under Executive Compensation Compensation Discussion and Analysis beginning on page 26 of this proxy statement.

### ***Governance Committee***

The Governance Committee assists our Board in fulfilling its responsibility relating to corporate governance by: (1) identifying individuals qualified to become directors and selecting or recommending that our Board select the candidates for all directorships to be filled by our Board, (2) developing and recommending the content of our Corporate Governance Principles to our Board, and (3) otherwise taking a leadership role in shaping our corporate governance. In evaluating

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candidates for directorships, our Board, with the help of the Governance Committee, takes into account a variety of factors it considers appropriate, which include certain minimum individual qualifications including strength of character, mature judgment, industry knowledge or experience and an ability to work collegially with other members of the Board. Other factors considered in evaluating candidates include the following: leadership skills; general business acumen and experience; broad knowledge of the rail freight business or of other modes of transportation; knowledge of strategy, finance, international business; government affairs related to transportation; legal considerations; experience with corporate governance; age; number of other board seats; and willingness to commit the necessary time to ensure an active Board whose members work well together and possess the collective knowledge and expertise required. In 2008, we did not pay any fees to a third party for assistance in identifying potential nominees for our Board. The Governance Committee is also tasked with, among other matters, the responsibility for reviewing and recommending to the Board, the compensation of non-management directors. Additional information on changes to non-management director compensation in 2008 is set forth under 2008 Director Compensation Directors Cash Compensation 2008 Compensation Changes on page 20 of this proxy statement.

## **Stockholder Recommendations for Director Nominations**

As noted above, the Governance Committee considers and establishes procedures regarding recommendations for nomination to our Board, including nominations submitted by stockholders. Such recommendations should be sent to the attention of our Secretary. Any recommendations submitted to the Secretary should be in writing and should include any supporting material the stockholder considers appropriate in support of that recommendation, but must include the information that would be required under the rules of the SEC to be included in a proxy statement soliciting proxies for the election of such candidate and a signed consent of the candidate to serve as one of our directors if elected. Stockholders must also satisfy the notification, timeliness, consent and information requirements set forth in our by-laws. For an explanation of such requirements, see Stockholder Proposals for 2010 Annual Meeting on page 57 of this proxy statement.

The Governance Committee evaluates all potential candidates in the same manner, regardless of the source of the recommendation. Based on the information provided to the Governance Committee, it will make an initial determination whether to conduct a full evaluation of a candidate. As part of the full evaluation process, the Governance Committee may conduct interviews, obtain additional background information and conduct reference checks of candidates. The Governance Committee may also ask the candidate to meet with management and other members of our Board. When the Governance Committee reviews a potential candidate, the Governance Committee considers the candidate's qualifications in light of the needs of the Board and the Company at that time, given the current mix of director attributes. In evaluating a candidate, our Board, with the assistance of the Governance Committee, also takes into account a variety of additional factors as described in our Corporate Governance Principles.

## **Meeting Attendance**

During 2008, our Board held five in person meetings and 11 telephonic meetings, and our Board's standing committees held a total of 23 meetings. During 2008, each director attended 93% or more of the aggregate of (a) the total number of meetings of the Board held and (b) the total number of committee meetings. There were only two meetings of the Board where the full Board was not in attendance. All directors attended last year's annual meeting of stockholders.

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### **Executive Sessions**

Our Corporate Governance Principles require our independent directors to have at least four regularly scheduled meetings per year without management present. Our independent directors met without management present a total of 10 times during 2009. During these sessions, the director acting in the role of presiding director is established by the directors based upon the topics under consideration.

### **Communicating with the Board**

Stockholders and other interested parties who would like to communicate directly with our Board, our non-management directors or any individual director may do so by writing to our Secretary at Genesee & Wyoming Inc., 66 Field Point Road, Greenwich, Connecticut 06830, and specifying whether such communication is addressed to the attention of (1) the Board as a whole, (2) non-management directors as a group or (3) the name of the individual director, as applicable. Communications will be distributed to our Board, non-management directors as a group or to any individual director or directors, as appropriate, depending on the facts and circumstances outlined in the communication. In that regard, our Board has requested that certain items that are unrelated to its duties and responsibilities should be excluded, such as junk mail and mass mailings, resumes and other forms of job inquiries, surveys and business solicitations or advertisements.

In addition, material that is unduly hostile, threatening, illegal or similarly unsuitable will be excluded, with the provision that any communication that is filtered out must be made available to any non-management director upon request. Any concerns relating to accounting, internal controls or auditing matters will be brought to the attention of our Audit Committee. In addition, for such matters, stockholders and other interested parties are encouraged to use our hotline, which is discussed below.

### **Hotline for Accounting or Auditing Matters**

As part of the Audit Committee's role to establish procedures for the receipt of complaints regarding accounting, internal accounting controls or auditing matters, we established a hotline for the confidential and anonymous submission of concerns regarding questionable accounting or auditing matters. Any matters reported through the hotline that involve accounting, internal controls over financial reporting or audit matters, or any fraud involving management or persons who have a significant role in our internal controls over financial reporting, will be reported to the Chairman of our Audit Committee. Our hotline number in the United States and Canada is (800) 589-3280. In Australia, our hotline number is 1800-141-924 and in the Netherlands, our hotline number is 0800-022-5890.

### **Code of Ethics**

We have a Code of Ethics applicable to all employees of our Company, including our Executive Chairman, CEO, Chief Financial Officer, Chief Accounting Officer and, to the extent it applies to their activities, all members of our Board. You can find a link to our Code of Ethics on our website at [www.gwrr.com](http://www.gwrr.com) under the Governance link, and we will provide a printed copy of our Code of Ethics, free of charge, to any stockholder or other interested party upon request to our Corporate Communications department. To the extent required to be disclosed, we will post amendments to, and any waivers or implied waivers from, our Code of Ethics at the same location on our website as our Code of Ethics.

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**Board Evaluations**

Each year our Board evaluates its performance through a self-evaluation process developed by the Governance Committee. Each member of our Board provides specific feedback on various aspects of the Board's role, organization and meetings, and the Chairman of our Governance Committee presents the findings of the self-evaluation process to our Board. As part of the evaluation, our Board develops, as appropriate, recommendations to enhance its effectiveness in the year to come. In addition to this process, each committee of our Board conducts its own annual performance evaluation.

**Table of Contents****2008 DIRECTOR COMPENSATION**

The following table and footnotes provide information on the compensation of our directors, other than our Executive Chairman and our CEO. In the paragraph following the table and footnotes, we describe our standard compensation arrangements for service on the Board, including service on Board committees, the annual retainer and meeting fees for the year ended December 31, 2008.

Name (1)	Fees Earned or			Total
	Paid in Cash (2)	Stock Awards (3)	All Other Compensation (4)	
David C. Hurley	\$ 48,833	\$ 95,703	\$ 5,000	\$ 149,536
Øivind Lorentzen III	\$ 58,633	\$ 58,206	\$	\$ 116,839
Robert M. Melzer	\$ 56,233	\$ 71,323	\$ 5,000	\$ 132,556
Philip J. Ringo	\$ 52,633	\$ 56,706	\$ 1,100	\$ 110,439
Peter O. Scannell	\$ 51,033	\$ 96,253	\$ 5,000	\$ 152,286
Mark A. Scudder	\$ 54,633	\$ 57,206	\$ 4,000	\$ 115,839
Hon. M. Douglas Young, P.C.	\$ 46,033	\$ 95,003	\$	\$ 141,036

- (1) Messrs. Fuller and Hellmann receive no additional compensation for their services as directors and are not included in the table above.
- (2) Includes amounts earned during 2008, all of which were deferred. In lieu of cash, our non-management directors can elect to receive payments for fees earned in the form of DSUs, which are deferred stock units, with a value equal to 125% of the cash fees earned. For 2008, all of the Company's non-management directors elected to receive all of their payments in the form of DSUs.
- (3) Reflects the dollar amount of the expense recognized by the Company in 2008 for financial statement reporting purposes in accordance with Financial Accounting Standards No. 123R, Share-Based Payments ( *SFAS 123R* ) with respect to DSUs, which are deferred stock units that have been issued to our non-management directors under the Amended and Restated 2004 Omnibus Incentive Plan ( *Omnibus Plan* ) and restricted stock ( *restricted stock* ) that has been issued to our directors under our Omnibus Plan in 2008 and in prior years. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For discussion of the assumptions made in the valuations, refer to Note 15 to our consolidated financial statements for the fiscal year ended December 31, 2008. In lieu of cash, our non-management directors can elect to receive payments for fees earned in the form of DSUs with a value equal to 125% of the cash fees earned. For 2008, all of the Company's non-management directors elected to receive all of their payments in the form of DSUs. The Stock Awards column includes the expense recognized for financial reporting purposes with respect to the 25% premium associated with the DSU awards. The fees forgone by these directors in favor of the DSUs are included in the Fees Earned or Paid in Cash column. Details of stock awards are set forth in the table below.
- (4) Reflects company contributions to the Directors' Matching Gift Plan described in additional detail below.

The following table details grants of stock awards to each of our directors in 2008. The table includes the grant date and grant date fair value of each 2008 stock award, and the aggregate number of outstanding, unvested stock awards held by each of the non-management directors, as of December 31, 2008:

Name	Grant Date (a)	Stock Awards (#)	Grant Date Fair Value (b)	Total Number of Outstanding, Unvested Stock Awards (#) (c)
David C. Hurley	3/31/2008	69	\$ 2,400	3,250
	5/28/2008	1,343	53,183	
	6/30/2008	82	2,800	
	8/26/2008	619	25,540	
	9/30/2008	112	3,983	
	12/31/2008	105	3,025	

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Name	Grant Date (a)	Stock Awards (#)	Grant Date Fair Value (b)	Total Number of Outstanding, Unvested Stock Awards (#) (c)
Øivind Lorentzen III	3/31/2008	90	\$ 3,125	2,948
	5/28/2008	1,343	53,183	
	6/30/2008	94	3,213	
	8/26/2008	619	25,540	
	9/30/2008	117	4,146	
	12/31/2008	145	4,175	
Robert M. Melzer	3/31/2008	80	\$ 2,750	1,962
	5/28/2008	1,343	53,183	
	6/30/2008	98	3,350	
	8/26/2008	619	25,540	
	9/30/2008	122	4,333	
	12/31/2008	126	3,625	
Philip J. Ringo	3/31/2008	80	\$ 2,750	2,948
	5/28/2008	1,343	53,183	
	6/30/2008	92	3,150	
	8/26/2008	619	25,540	
	9/30/2008	115	4,083	
	12/31/2008	110	3,175	
Peter O. Scannell	3/31/2008	78	\$ 2,712	3,250
	5/28/2008	1,343	53,183	
	6/30/2008	88	3,012	
	8/26/2008	619	25,540	
	9/30/2008	114	4,046	
	12/31/2008	104	2,987	
Mark A. Scudder	3/31/2008	78	\$ 2,712	2,948
	5/28/2008	1,343	53,183	
	6/30/2008	94	3,213	
	8/26/2008	619	25,540	
	9/30/2008	121	4,296	
	12/31/2008	119	3,437	
Hon. M. Douglas Young, P.C.	3/31/2008	69	\$ 2,400	3,250
	5/28/2008	1,343	53,183	
	6/30/2008	79	2,700	
	8/26/2008	619	25,540	
	9/30/2008	105	3,733	
	12/31/2008	93	2,675	

- (a) The May 28, 2008 and August 26, 2008 grants relate to the annual restricted stock awards issued to the non-management directors, which awards are subject to vesting conditions. The May 28, 2008 grant reflects a \$40,000 award of restricted stock, and the August 26, 2008 award reflects an additional \$20,000 award of restricted stock as a result of an increase, retroactively effective as of May 28, 2008, in non-management director compensation. See additional discussion below under Restricted Stock Grants. All other grants relate to the director's election to receive DSUs as payment in lieu of cash payments for their annual retainer and Board and Committee meeting fees. The number of DSUs shown as awarded and the grant date fair value thereof reflect only the 25% premium associated with the DSU awards. See Deferral of Cash Compensation below.





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- (b) This column shows the full grant date fair value of restricted stock awards and stock options under SFAS 123R granted in 2008. The grant date fair value is the amount that the Company will expense in its financial statements over the award's required period of service, not taking into account any estimated forfeitures as required by SFAS 123R.
- (c) Notwithstanding any deferral elections by non-management directors, DSUs are deemed to be owned outright by the non-management directors on the grant date and are therefore not included in outstanding unvested stock awards as of December 31, 2008.

The following table shows the aggregate number of outstanding option awards held by each of our non-management directors as of December 31, 2008. There were no grants of options to our non-management directors in 2008.

Name	Total Number of Outstanding Option Awards(#)
David C. Hurley	
Øivind Lorentzen III	
Robert M. Melzer	10,126
Philip J. Ringo	5,063
Peter O. Scannell	10,125
Mark A. Scudder	10,125
Hon. M. Douglas Young, P.C.	

**Directors Cash Compensation****General**

During fiscal year 2008, our non-management directors earned an aggregate amount of \$368,031 in fees for service on our Board and its committees, which includes additional amounts paid to non-management directors associated with an increase in the compensation approved by the Board on August 26, 2008. Additional information relating to the increase, retroactively effective as of May 28, 2008, in non-management director compensation is set forth below. We also reimburse our non-management directors for travel expenses in connection with their attendance of Board and committee meetings, and trips to our facilities and operations. Our non-management directors were also granted DSUs representing shares of our Class A Common Stock associated with the deferral of fees for service on our Board, committees and chair fees as discussed below under Deferral of Cash Compensation. Only our non-management directors are entitled to receive fees for Board service.

**2008 Compensation Changes**

In accordance with a recommendation made by the Governance Committee, on August 26, 2008 the Board approved an increase in the compensation paid to non-management directors. During 2008, the Governance Committee engaged Frederic W. Cook Co., Inc. ( *Cook* ) to perform a study of the Company's non-management director compensation and provide a recommendation to the Governance Committee. In accordance with the engagement, Cook prepared a report that included a summary of the Company's current compensation program for non-management directors; market compensation information; comparisons of the Company's program as compared with market practices; detailed information on peer group practices; a summary of key findings and summary recommendations. The market data on director compensation was derived from two sources, the National Association of Corporate Directors (NACD) Director Compensation Report: 2007-2008 and the Company's peer group. The Company's peer group included the same companies used for the 2008 Executive Compensation Study. Additional information on the peer group is set forth below under 2008 Executive Compensation Study. When compared with the peer group, it was determined that the Company's non-management director compensation was below market, as a result of both the annual

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retainer and the annual equity award value being below market. Consequently, following a review of Cook's recommendations, and after considering the fact that non-management directors' compensation had not increased since 2003, the Governance Committee recommended that the Board increase, retroactively effective as of May 28, 2008, non-management director compensation by increasing the annual retainer from \$20,000 to \$30,000, increasing the annual equity award from \$40,000 to \$60,000 and increasing the telephonic Board and Committee meeting fees from \$400 to \$1,000, which recommendation was adopted by the Board. The Governance Committee and Board believe that implementing these changes will reward directors fairly for their efforts on behalf of the Company and will further align the non-management directors' interests with the long-term interests of our stockholders.

**2009 Compensation Changes**

In recognition of the weak economic environment, in February 2009 the non-management directors voluntarily reduced their previously-established compensation by 5%.

**Board and Committee Fees**

Historically, each of our non-management directors received an annual retainer of \$20,000, with an additional fee of \$2,000 for each Board meeting the director attended in person and \$400 for each Board meeting the director attended telephonically. Directors who served on a Board committee received a \$1,000 fee for each committee meeting attended in person and a \$400 fee for each committee meeting attended telephonically. As noted above, following the review of non-management director compensation, the non-management directors' annual retainer was increased to \$30,000. In addition, the fee for each Board and committee meeting attended telephonically was increased to \$1,000. In addition to the annual retainer and Board meeting and Committee meeting fees, the Chairman of the Audit Committee is entitled to receive an annual retainer of \$10,000, and the Chairman of the Governance Committee and the Chairman of the Compensation Committee each receive an annual retainer of \$5,000. These fees are pro-rated and paid quarterly.

**Fees Paid or Earned in Cash**

The following table outlines the fees earned by each of our non-management directors in 2008 for service on our Board, but excludes any additional amounts associated with the deferral of fees discussed below:

Name	Annual Retainer	Committee Meeting Fees		Board Meeting Fees		Chair Fees	Total
		In person	Telephonic	In person	Telephonic		
David C. Hurley	\$ 25,833	\$ 4,000	\$ 3,200	\$ 10,000	\$ 5,800	\$	\$ 48,833
Øivind Lorentzen III	25,833	4,000	2,600	10,000	6,200	10,000	58,633
Robert M. Melzer	25,833	8,000	6,200	10,000	6,200		56,233
Philip J. Ringo	25,833	8,000	2,600	10,000	6,200		52,633
Peter O. Scannell	25,833	4,000		10,000	6,200	5,000	51,033
Mark A. Scudder	25,833	4,000	3,600	10,000	6,200	5,000	54,633
Hon. M. Douglas Young, P.C.	25,833	4,000		10,000	6,200		46,033
Total	\$ 180,831	\$ 36,000	\$ 18,200	\$ 70,000	\$ 43,000	\$ 20,000	\$ 368,031

**Deferral of Cash Compensation**

Under the Omnibus Plan, each non-management director can elect to have all or a portion of his earned annual retainer, Board and committee fees, and chair fees paid in DSUs representing shares of

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our Class A Common Stock. To the extent a director elects to defer all or a portion of these fees, the participating director's account is credited on a quarterly basis with DSUs having a value equal to 125% of the cash compensation he elected to defer. Specifically, the number of DSUs credited to each participating director's account is equal to the result obtained by dividing the dollar amount credited to such director's account by the per share market price of the Class A Common Stock at the close of business on the second to last business day of the quarter in which such director would have otherwise been entitled to receive the cash compensation and multiplying that amount by 1.25. Dividends (if any) payable on the Class A Common Stock are credited as additional DSUs, and the number of DSUs in the accounts are subject to customary anti-dilution adjustments. A non-management director is not entitled to vote or transfer the Class A Common Stock represented by the DSUs in his account until the shares represented by DSUs are issued to him. These shares will be issued to the participating director or his designated beneficiaries (1) on the deferred payment date previously elected by him or (2) if earlier, upon his death, long-term disability or cessation of service as a director. In 2008, our non-management directors received additional shares valued at \$92,008 resulting from the 25% premium associated with the deferral of fees for service on our Board, and committees and chair fees.

### **Restricted Stock Grants**

Each non-management director received an annual equity award in the form of a grant of restricted stock with a value of \$40,000 on May 28, 2008, based on a 12-month average stock price of \$29.87. On August 26, 2008, as discussed above, the Board approved an increase, retroactively effective as of May 28, 2008 in the non-management director annual equity award from \$40,000 to \$60,000. As a result, an additional grant of restricted stock with a value of \$20,000 was made to non-management directors on August 26, 2008, based on a 12-month average stock price of \$32.31. In 2009 and going forward, we expect each non-management director will receive an annual grant of restricted stock with a value equal to approximately \$60,000, based on a 12-month average stock price, with such grants made on the date of the annual meeting. For the first year of a director's three-year term, the annual restricted stock grant vests in three equal installments on the dates of each of the next three annual meetings. For the second year of the director's three-year term, the annual restricted stock grant vests in two equal installments on the dates of each of the next two annual meetings. For the final year of the director's three-year term, the entire amount of the annual restricted stock grant vests on the date of the next annual meeting. For new directors, an annual restricted stock grant valued at \$60,000 will be made on the date on which a director joins the Board, which award will vest on the date of the next annual meeting.

### **Director Stock Ownership Guidelines**

Our Board believes that ownership of our stock by our directors aligns their interests with the interests of our stockholders. Therefore, our Board has adopted stock ownership guidelines that require our non-management directors to beneficially own 5,000 shares within five years of first being elected to our Board.

### **Directors' Matching Gift Plan**

Our Directors' Matching Gift Plan is designed to provide an additional incentive for our non-management directors to contribute to educational, cultural, environmental and charitable organizations of their choice. We will match gifts up to a total of \$5,000 per donor per year. Non-educational recipient organizations must be tax-exempt under Section 501(c)(3) of the IRC and must not be a religious organization. In addition, arts or cultural organizations must be open to and operated for the benefit of the public; environmental conservation organizations must be affiliated with

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national, regional or state-level organizations, must provide public benefits beyond individual communities and must engage in conservation efforts related to land, air and water use; and charitable organizations must be affiliated with local, state-regional or state-level organizations. Educational institutions can either be secondary schools, schools which offer two-year or four-year degrees above the high school level, graduate level schools or programs, accredited educational institutions or educational institutions that are tax-exempt under Section 501(c)(3) of the IRC. In 2008, we contributed \$20,100 pursuant to this plan. All charitable deductions made pursuant to this plan are taken solely by our Company, and our individual directors do not derive any personal financial benefit from the plan's implementation.

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**EXECUTIVE OFFICERS**

**Current Makeup and Changes Last Year**

**Mortimer B. Fuller III**, age 66, has been our Executive Chairman since June 2007 and Chairman of the Board since 1977. Previously, Mr. Fuller was our CEO from 1977 to June 2007 and our President from 1977 to 1997. See Proposal One: Election of Directors and Related Person Transactions and Other Information Other Class B Stockholder s Agreement above for further information about Mr. Fuller. Mr. Fuller has an A.B. from Princeton University, an M.B.A. from Harvard University and a J.D. from Boston University School of Law.

**John C. Hellmann**, age 38, has been a director since 2006, our CEO since June 2007 and our President since May 2005. Previously, Mr. Hellmann was our Chief Financial Officer, or CFO, from 2000 to May 2005. See Proposal One: Election of Directors above for further information about Mr. Hellmann. Mr. Hellmann has an A.B. from Princeton University, an M.B.A from The Wharton School of the University of Pennsylvania and an M.A. in International Relations from the Johns Hopkins University School of Advanced International Studies (SAIS).

**James W. Benz**, age 60, has been our Chief Operating Officer since May 2005. Previously, Mr. Benz was President of our Rail Link region for eight years. He founded Rail Link, Inc. in 1987, which was subsequently acquired by us in 1996, and he built the business into one of our largest operating units. His 35 years of railroad industry experience have included positions with the Seaboard Coast Line and CSX Transportation. Mr. Benz has a B.S. in Business Administration from the University of Tennessee. Mr. Benz also completed Harvard University s Advanced Management Program in 2006.

**Allison M. Fergus**, age 35, has been our General Counsel and Secretary since October 2006. Ms. Fergus joined the Company as Senior Counsel in November 2005. Prior to joining the Company, Ms. Fergus was an associate at Shearman & Sterling LLP in New York where she practiced in the capital markets group from 2001 to 2005. Prior to her employment at Shearman & Sterling, Ms. Fergus worked in the treasury group of Omnicom Group Inc. and at JPMorgan Chase, formerly Chase Manhattan Bank. Ms. Fergus has a B.S. in Finance and International Business from Georgetown University and a J.D. from Fordham University School of Law.

**Timothy J. Gallagher**, age 46, has been our CFO since May 2005. Prior to joining the Company, Mr. Gallagher was Senior Vice President and Treasurer of Level 3 Communications from 2004 to 2005. Prior to that, Mr. Gallagher held a number of senior financial positions during nearly five years at WilTel Communications and eight years at BP Amoco Corporation. Mr. Gallagher has a B.S.E. from Princeton University, an M.B.A. from the Wharton School of the University of Pennsylvania and an M.S. in Financial Mathematics from the University of Chicago.

**Christopher F. Liucci**, age 40, joined the Company as Chief Accounting Officer and Global Controller in March 2006. Prior to joining the Company, Mr. Liucci worked with Genencor International, Inc. as Director of Global Financial Planning and Reporting from 1998 to 2006 and Controller of Financial Reporting/Internal Controls from 1997 to 1998. Prior to that, Mr. Liucci was an Audit Manager with Coopers & Lybrand L.L.P. (a predecessor to PwC), where he was an independent auditor for six years. Mr. Liucci is a certified public accountant and has a B.S. in Accounting from the State University of New York at Geneseo and an M.B.A. from The Simon School of the University of Rochester.

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The Executive Officers serve at the discretion of our Board without specified terms of office, with the exception of Mr. Fuller who has an Employment Agreement with the Company. Additional information on Mr. Fuller's Employment Agreement is set forth under Compensation Discussion Analysis Continuity and Employment Agreements.

**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Exchange Act requires the Company's directors and Executive Officers, and any persons who beneficially own more than 10% of the Company's stock, to file with the SEC initial reports of ownership and reports of changes in ownership in our stock. Such persons are required by SEC regulations to furnish the Company with copies of all Section 16(a) forms they file. As a matter of practice, the Company's administrative staff assists the Company's Executive Officers and directors in preparing and filing these reports with the SEC.

To the Company's knowledge, based solely on the review of the reports filed by the Company on behalf of these individuals, the copies of such reports furnished to the Company, and written representations that no other reports were required, all such Section 16(a) filing requirements were met during 2008.

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**EXECUTIVE COMPENSATION**

**Compensation Discussion and Analysis**

***The Compensation Committee***

The fundamental responsibility of our Compensation Committee is to assist the Board in connection with fulfilling its fiduciary duties with respect to our compensation program, with particular attention given to the Executive Officers and other key personnel. The Compensation Committee is composed entirely of independent directors. The Compensation Committee oversees our executive compensation program and reviews and approves annually all compensation decisions relating to Executive Officers.

***Role of Employees and Compensation Consultants***

In performing its duties, the Compensation Committee meets periodically with the CEO to review compensation policies and specific levels of compensation paid to Executive Officers (other than the CEO and the Executive Chairman) and certain other key personnel. The CEO assists the Compensation Committee in evaluating Executive Officer performance, establishing business performance targets and objectives, and recommending salary levels and incentive awards. The CEO works with the Compensation Committee Chairman in establishing the agenda for meetings and management prepares the information required for the meetings. This information includes reports, data and analyses with respect to current and proposed compensation, answers to inquiries from members of the Compensation Committee, and documents related to our compensation program. As necessary, the Compensation Committee also meets in executive session.

The Compensation Committee has the authority under its charter to retain outside consultants or advisors, as it deems necessary or advisable. In accordance with this authority, the Compensation Committee has engaged Cook as its independent outside compensation consultant to provide it with objective and expert analyses, advice and information with respect to compensation decisions relating to Executive Chairman, CEO and other Executive Officers.

With the exception of the services provided by Cook to the Governance Committee with respect to non-management director compensation, Cook maintains no other direct or indirect business relationships with the Company. To the extent Cook provides executive compensation services to the Compensation Committee, the services are conducted under the direction and authority of the Compensation Committee and all work performed by Cook is pre-approved by the Chairman of the Compensation Committee.

In 2008, Cook's services included:

provision of a market compensation review, including provision of advice on the associated peer group for the senior executive team, including all Executive Officers, in conjunction with the executive compensation study, which resulted in changes in compensation for 2009; and

provision of a market compensation review, including analysis of the peer group, for the non-management directors' compensation.



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### ***Goals and Elements of the Company's Compensation Program 2008 Compensation Decisions***

The goals of our executive compensation program are to align compensation with business objectives and performance, and to enable us to attract, retain and reward executives necessary for our long-term success and increase in stockholder value.

Our current executive compensation program consists primarily of:

annual base salary;

annual incentive compensation in the form of cash bonuses payable based on our performance as compared with our annual financial objectives calculated in accordance with our Genesee Value Added ( *GVA* ) methodology (an economic value-added model) our safety objectives, and individual performance objectives (as applicable); and

long-term incentive compensation in the form of stock option and restricted stock awards.

Executive Officers and other employees are also entitled to participate in the Company's 401(k) Savings Incentive Plan ( *401(k) Plan* ), which provides retirement benefits to employees and includes employer and employee contributions. Executive Officers, as highly compensated employees, are also permitted to defer receipt of their salary or cash bonuses into accounts that mirror the gains and/or losses of several different investment funds we have selected under our Deferred Compensation Plan ( *DCP* ). The investment funds offered are similar but not identical to those offered under our 401(k) Plan. In addition, select Executive Officers participate either in a modified split-dollar life insurance program or in Defined Contribution Accounts under our DCP. The Company also provides additional long-term disability coverage to Executive Officers. Executive Officers and other employees, other than our Executive Chairman, are entitled to participate in the Company's Employee Stock Purchase Plan (the *Stock Purchase Plan* ) which permits participants to purchase Class A Common Stock at approximately 90% of the lowest closing price of the stock on either the first business day of the month or second-to-last business day of the month, subject to specified limitations. Executive Officers also participate in other employee benefit plans on the same terms as all other Company employees. Information on these programs is set forth below under *Other Compensation*. Additional information on amounts paid to the Executive Officers under these programs is set forth below under *Summary Compensation Table*.

### ***Annual Base Salary***

We provide base salaries to recognize the skills, competencies, experience and individual performance of each Executive Officer. The base salary paid to each Executive Officer serves as the foundation of the overall compensation program for the Executive Officer, and the payouts under the annual incentive compensation plan and long-term incentive compensation program are generally tied to, or expressed as a percentage of, base salary. The Compensation Committee annually reviews and, if appropriate, makes changes to base salaries of Executive Officers based on, among other things, recommendations of the CEO for Executive Officers other than himself and the Executive Chairman.

Factors considered by the Compensation Committee in establishing base salaries each year include the Executive Officer's performance during the prior year, changes in competitive compensation levels, changes in responsibilities, changes in the cost of living, our recent financial performance, retention considerations and general economic and competitive conditions.

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As a result of the Company's operating performance in 2007 and for other reasons set forth below, our Executive Officers received the following increases in annual base salaries for 2008.

Name	2008 Base Salary	Increase in Base Salary in 2008 (%) (1)
Mortimer B. Fuller	\$ 688,275	3.5%
John C. Hellmann	\$ 548,550	3.5%
Timothy J. Gallagher	\$ 318,780	3.5%
James W. Benz	\$ 267,030	3.5%
Allison M. Fergus	\$ 250,000	13.6%
Christopher F. Liucci	\$ 188,000	4.4%

(1) The increases were calculated by comparing the base salaries in effect at the end of 2007 to those in effect at the beginning of 2008. The 3.5% increases in base salary provided to Messrs. Fuller, Hellmann, Gallagher and Benz reflect an adjustment to address the increase in the cost of living ( COLI ), which adjustment was consistent with the increase provided to the general population of employees. Mr. Fuller was entitled to this increase in accordance with his Employment Agreement. A description of Mr. Fuller's Employment Agreement is set forth in Narrative Supplement to the Summary Compensation Table And The Grants of Plan Based Awards in 2008 Table. The salary increase for Ms. Fergus includes a COLI adjustment as well as adjustments to reflect an increase in her contribution and responsibility after her first full year as General Counsel and the previously low base salary associated with Ms. Fergus being new to her role in 2007. The salary increase for Mr. Liucci includes a COLI adjustment as well as an adjustment to reflect changes in competitive compensation levels and his performance during 2007.

**Annual Incentive Compensation Program Cash Bonuses Under the GVA Methodology Under the Omnibus Plan**

We use our annual incentive compensation program as a tool to align our Executive Officers' interests with our stockholders' interests and, to the extent possible, we seek to have annual incentive compensation qualify as tax deductible, performance-based compensation for the Company under Section 162(m) of the IRC. On an annual basis, Executive Officers are rewarded with cash bonuses targeted at 35% to 70% of their annual base salary, with such cash bonuses based upon a combination of Company-wide financial performance measured under our GVA methodology, Company-wide safety performance, and, in the case of the General Counsel and Chief Accounting Officer and Global Controller, individual performance.

The financial performance targets for the Company are derived based on Genesee Value Added, or GVA. GVA is a measure of our after-tax operating profits less a capital charge. The capital charge is calculated by multiplying the Company's assumed, long-term weighted average cost of capital by the total capital invested in the business, a particularly relevant metric for our capital-intensive railroad operations. We believe evaluating financial performance based on GVA motivates Executive Officers and other key employees to produce results that increase stockholder value and encourages individual and team behavior that helps the Company achieve both short- and long-term corporate objectives. Safety performance is included as a component of our annual incentive compensation program because we are committed to protecting the personal well-being of our employees and the communities in

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which we operate. We also believe safe operations minimize high cost injuries and insurance-related expenses. In addition, commitment to safe work practices requires attention to detail in operations, which we believe translates into efficient and profitable railroads. Safety performance targets for the Company are derived from ratios of the number of reportable injuries to manhours worked, as defined by the Federal Railroad Administration ( *FRA* ). FRA reportable injuries represent a verifiable way of monitoring safety and benchmarking our safety results against other railroads. For the General Counsel and Chief Accounting Officer and Global Controller, individual performance is used as a component of annual incentive compensation to motivate attainment of personal goals that further our corporate objectives.

Financial performance-based bonuses paid for any one year can vary from zero to 200% of the target percentage payouts. However, to the extent that the financial performance of the Company generates a bonus amount that would otherwise be greater than 200% of the target bonus amount or less than zero, the amount in excess of 200% of the target or less than zero, as applicable, is carried forward to subsequent years' bonus calculations, subject to specified limitations. For instance, no employee has any right to the excess positive bonus amounts carried forward if his or her employment ends prior to the end of the subsequent year, and no employee has any obligation related to negative bonus amounts carried forward if his or her employment terminates. Safety performance-based bonuses also vary from zero to 200% of the target percentage payouts, but no amounts are carried forward to subsequent years. As a result, when the Company performs well, based on financial and safety performance targets, Executive Officers have the opportunity to receive greater cash bonuses. Conversely, in the event financial and safety performance do not meet established targets, Executive Officers may receive no cash bonuses and could have a negative bonus carried forward that will reduce bonuses paid in subsequent years. In addition, Executive Officers with sustained high personal performance are rewarded more than those in similar positions with lesser performance to the extent individual performance represents a portion of the target bonus.

Annual incentive compensation for 2008 paid to the Executive Officers was based on the Company's financial performance, safety performance and individual performance, as applicable. For 2008, as was the case in the prior years, the Compensation Committee approved annual financial, safety and individual performance goals and the target payouts as a percentage of base salary. The Compensation Committee set the financial performance target at a reasonable stretch level taking into account the business environment at the time the target was established. The safety performance target was also set at a reasonable stretch level as compared with the historic safety results of Class II and Class III railroads, and at a level that encourages consistent year-over-year safety improvements. In 2008, the safety performance target was set at 1.50 FRA reportable injuries per 200,000 man hours worked, a decrease from a target of 1.75 in 2007 and the actual 1.67 result for 2007. From 2002 to 2008, actual payouts to Executive Officers have ranged from 31% to 128% of the targeted bonuses (excluding amortization of positive carryover bonus amounts) and corporate financial performance and safety performance targets have only been achieved three times.

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The following table illustrates the target amount of annual cash bonus payments established on February 6, 2008 (for fiscal year 2008) for our Executive Officers, as well as the relative weights assigned to each performance measure for each individual. The Company calculates the actual annual cash bonus independently for each performance measure and adds these calculations together to determine the annual bonus payout for each Executive Officer:

Name	Relative Weighting of Criteria in Determining Annual Cash Bonus Amount						
	Target Annual Cash Bonus Amount as a Percentage of Base Salary	Corporate Financial Performance Target Payout	Range of Corporate Financial Performance Payout as a % of Base Salary	Corporate Safety Performance Target Payout	Range of Corporate Safety Performance Payout as a % of Base Salary	Individual Performance	Range of Individual Performance Payout as a % of Base Salary
Mortimer B. Fuller III	50%	85%	0% - 85%	15%	0% - 15%		
John C. Hellmann	70%	85%	0% - 119%	15%	0% - 21%		
Timothy J. Gallagher	50%	85%	0% - 85%	15%	0% - 15%		
James W. Benz	50%	80%	0% - 80%	20%	0% - 20%		
Allison M. Fergus	40%	35%	0% - 28%	15%	0% - 12%	50%	0% - 20%
Christopher F. Liucci	35%	35%	0% - 24.5%	15%	0% - 10.5%	50%	0% - 17.5%

In 2008, the Company exceeded its financial performance and safety performance targets. As a result, the Company's 2008 performance resulted in a bonus pool of approximately \$4.5 million for all participants, with \$1.6 million of the bonus pool attributable to our Executive Officers. The 2008 bonus awards paid to our Executive Officers were between 115% and 166% of target annual cash bonuses, which the Committee believes is appropriate based on Company performance against objectives and achievement of individual goals, as applicable. Based on 2008 performance, Messrs. Fuller, Hellmann and Gallagher earned a bonus equal to 127% of their target annual cash bonus. For 2008, Mr. Benz earned a bonus equal to 128% of his target annual cash bonus, which bonus was increased to 166% of target as a result of the amortization of positive carryover bonus amounts from prior years. For 2008, Ms. Fergus and Mr. Liucci earned a bonus equal to 115% and 122%, respectively, of their target annual cash bonus. Ms. Fergus and Mr. Liucci received 100% and 115%, respectively for their individual performance in 2008. The attainment of the individual performance metric by Ms. Fergus and Mr. Liucci was determined by the CEO and CFO, respectively. For additional information on actual amounts of annual incentive compensation paid to Executive Officers, see the Non-Equity Incentive Plan Compensation column included in the Summary Compensation Table.

**Long-Term Incentive Compensation Program Equity Awards under the Omnibus Plan Stock Options and Restricted Stock Awards**

We use our long-term incentive program to provide equity awards, including stock options and restricted stock awards, to our Executive Officers and other key personnel. Awards are granted to our Executive Officers at the discretion of the Compensation Committee, and are based on the Compensation Committee's evaluation of each Executive Officer's contribution and expected future contribution to our financial success, with input from the CEO with respect to Executive Officers other than himself and the Executive Chairman. The Compensation Committee views stock options as an important component of overall executive compensation because stock options emphasize the objective of increasing stockholder value. The Compensation Committee views restricted stock awards as providing compensation that promotes a long-term financial interest in the Company. Historically, the program provided an opportunity for Executive Officers to receive long-term incentive compensation in the form of annual equity awards valued at between 50% and 150% of annual base salary. The actual amount of the annual equity award was based on both individual and corporate financial

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performance as assessed by the CEO, with respect to Executive Officers other than himself and the Executive Chairman, and the Compensation Committee, based on guidance from independent consultants, if requested. Additional considerations included the amounts paid as annual incentive compensation, individual performance of the Executive Officers, retention requirements and other factors that were deemed relevant by the Compensation Committee.

In 2008, for each Executive Officer, stock options constituted approximately 70% of the value of total long-term incentive compensation and restricted stock awards constituted the remaining 30%. We believe that the 70%/30% allocation between stock options and restricted stock awards provides a balance between the highly leveraged nature of stock options and the stock ownership benefits of restricted stock. This emphasis on long-term incentives is intended to align the long-term financial interests of our Executive Officers with those of our long-term stockholders and provide a retention incentive to our Executive Officers.

In keeping with the Company's philosophy of aligning management and stockholder interests and considering the future contributions expected of our Executive Officers, the Committee granted 2008 long-term incentive equity awards to our Executive Officers ranging in value from 75% to 140% of annual base salary. These awards were in recognition of the value of the continued leadership of the executives. In 2008, the long-term equity incentive compensation awards were made on May 30, 2008 in conjunction with the annual meeting.

Name	2008 Equity Award as a Percentage of Base Salary
Mortimer B. Fuller III	75%
John C. Hellmann	140%
Timothy J. Gallagher	140%
James W. Benz	140%
Allison M. Fergus	100%
Christopher F. Liucci	100%

As a percentage of base salary, the awards to Mr. Fuller, Mr. Hellmann and to Ms. Fergus were consistent with 2007 awards. The awards made to Messrs. Gallagher and Benz increased from 135% of base salary in 2007 to 140% of base salary in 2008 in recognition of an increase in their responsibilities. Mr. Liucci's award was increased from 85% of base salary in 2007 to 100% of base salary in 2008 in consideration of Mr. Liucci's performance. For additional information on the value of the 2008 long-term equity incentive awards to Executive Officers, see the Grant Date Fair Value of Stock and Option Awards column included in the 2008 Grant of Plan-Based Awards table.

The stock option awards and restricted stock awards for Executive Officers and other key personnel include confidentiality and non-compete obligations, which if violated result in a forfeiture of unexercised options and disgorgement of any gains on option awards and restricted stock awards during the previous six months. The option awards and restricted stock awards for Executive Officers are also subject to acceleration of vesting upon a change in control.

***Share Retention Guidelines***

The Compensation Committee adopted executive share retention guidelines for the Executive Officers, other than the Executive Chairman, of the Company and other key personnel to further align the interests of these individuals with the interests of our stockholders. Under the guidelines, the

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Executive Officers are expected to maintain a significant ownership position in our Class A Common Stock, which is based on a multiple of such executive's current base salary on the date of adoption or revision of the guidelines, but expressed as a number of shares. Notwithstanding the guidelines, Executive Officers are permitted to sell shares to finance the exercise price of an equity award, if any, and to settle any tax obligations in connection with the exercise or vesting of an equity award. However, the Executive Officer is required to hold a specified percentage of any remaining shares until the share ownership guideline amount is satisfied. Waivers of the guidelines can be granted by the CEO for Executive Officers (other than himself) and key employees, and by the Compensation Committee for the CEO. Waivers are granted only for serious and unforeseen hardship circumstances. It has been our practice to reevaluate the retention guidelines in connection with significant changes to base salaries.

The share retention guideline amounts and required retention percentages, in each case net of tax obligations for our Executive Officers, are set forth below and are based on position:

<b>Principal Position</b>	<b>Share Guideline Amount</b>	<b>Required Retention Percentage</b>
President and CEO	135,000	100%
Chief Financial Officer	30,000	50%
Chief Operating Officer	30,000	50%
General Counsel	30,000	50%
Chief Accounting Officer	15,000	50%

In determining whether our share retention guidelines have been met, restricted stock, shares held by a spouse or minor child who resides with the Executive Officer or key employee and shares held by a trust established for estate or tax planning purposes that is revocable by the Executive Officer, key employee or his or her spouse are considered owned.

**Other Compensation****401(k) Plan**

Executive Officers and other employees are entitled to participate in our 401(k) Plan, which provides retirement benefits to employees and provides for employer and employee contributions. For 2008, the Company matched 100% of employee contributions to the 401(k) plan, up to the lesser of 4% of the employee's salary or \$9,200.

**Stock Purchase Plan**

Executive Officers, other than our Executive Chairman, and other employees who have been employed for more than one year and customarily work more than 20 hours per week are entitled to participate in our Stock Purchase Plan. Our Stock Purchase Plan permits participants to purchase our Class A Common Stock at approximately 90% of the lowest closing price of our Class A Common Stock on either the first business day of the month or the second-to-last business day of the month. Participants in the Stock Purchase Plan may not purchase stock with an aggregate fair market value in excess of \$25,000 during any calendar year or make purchases that would cause such participant to own 5% or more of the Company's then-outstanding Class A Common Stock. Stock purchases under the Stock Purchase Plan are funded through payroll deductions of up to 10% of a participant's regular earnings. The Stock Purchase Plan is intended to encourage ownership of our Class A Common Stock.

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by our present and future employees at all levels of employment and thereby provide them with the incentive created by stock ownership. The Stock Purchase Plan is also intended to provide a more efficient mechanism for our employees to acquire stock ownership. The Compensation Committee administers the Stock Purchase Plan.

### ***Modified Split-Dollar Life Insurance***

As part of our effort to attract and retain Executive Officers and other key employees, from 1994 until 2002 we offered certain Executive Officers, including Mr. Fuller, Mr. Hellmann and some regional general managers of the Company, split-dollar life insurance arrangements. These arrangements were designed to provide a death benefit and post-employment retirement benefits based on the insurance policies' cash value at retirement. Under the historic arrangements, the policies were owned by the participants, the premiums were paid on their behalf by the Company, and the Company was entitled to a portion of the death benefit proceeds or cash value equal to the amount of premiums advanced.

Section 402 of the Sarbanes-Oxley Act of 2002 prohibits companies from making loans to Executive Officers and has been interpreted by some to prohibit these types of split-dollar life insurance arrangements. As a result, in 2002 the Company suspended premium payments under the policies for Messrs. Fuller and Hellmann, and the Compensation Committee, with advice from its independent consultant, evaluated alternative methods of providing these benefits. In light of the substantial amount of premiums already built-up in these policies, the expected future years of service for these executives and other factors, since 2004 the Company has paid Mr. Fuller and Mr. Hellmann additional compensation equal to the premiums on these policies, plus a tax gross-up, to enable Mr. Fuller and Mr. Hellmann to fund the premiums directly. In late 2006, Mr. Hellmann's policy was canceled and there are no remaining payment obligations.

In 2005, Mr. Benz was promoted to Chief Operating Officer and became an Executive Officer. As a result, in 2005 we suspended contributions to Mr. Benz's split-dollar policy because of the prohibitions on loans to Executive Officers, and in 2007 we refunded to Mr. Benz amounts paid between 2002 and 2005 to eliminate any impermissible loans. In early 2007, the Company paid Mr. Benz additional compensation equal to the premiums from 2005 and 2006, plus a tax gross-up to enable Mr. Benz to fund the overdue premiums directly. Since then, the Company has paid Mr. Benz additional compensation equal to the premiums on his policy, plus a tax gross-up, to enable Mr. Benz to fund the premiums directly.

The Company will not be entitled to reimbursement of amounts paid directly to the executives, but retains the right to receive from the insurance company an amount equal to the amount of premiums paid by the Company on the split-dollar life insurance policies of Mr. Fuller and Mr. Benz prior to 2002. With the exception of payments due to Mr. Fuller under his Employment Agreement, the Company has no obligation to continue paying for the premiums on these policies, and we continue to evaluate these and other types of arrangements for our Executive Officers.

### ***Long-Term Disability Insurance***

Executive Officers and certain other employees receive coverage under our long-term disability insurance program, which provides a monthly income in the event of the executive's disability. The Compensation Committee believes that this benefit is a normal component of a competitive executive

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compensation program. For 2008, this coverage provided a monthly benefit of 70% of the executive's salary and bonus, up to a maximum of \$8,000 per month.

### ***Deferred Compensation Plan***

Starting in 2004, we began offering a deferred compensation plan. On December 31, 2008, the Amended and Restated 2004 Deferred Compensation Plan, or DCP, was approved to make the DCP compliant with the requirements of Section 409A of the IRC. The DCP allows senior employees, including our Executive Officers, to defer receipt of their salary and/or annual incentive payments into accounts that mirror the gains and/or losses of several different investment funds we have selected. The investment funds offered are similar but not identical to those offered under our 401(k) Plan. The DCP does not offer above market fixed interest rate returns or permit participants to defer their cash compensation into our common stock. Participants may defer up to 50% of base salary and 100% of annual cash incentive awards until the date or dates they have specified. We are not required to make any contributions to the DCP, and the participants have an unsecured contractual commitment by our Company to pay the amounts due under the DCP. When such payments are due, the cash will be distributed from the Company's general assets.

In 2006, the Company established Defined Contribution Accounts under the Company's existing DCP for Mr. Hellmann and Mr. Gallagher. The Defined Contribution Accounts are intended to provide, upon the executive's retirement, a target benefit amount equal to a 20-year annuity with payments equivalent to 38% of the estimated final five year average cash compensation (based on salary and target bonus objectives) of the participating executive, assuming retirement at age 65. Company contributions will be informally funded into a rabbi trust (a grantor trust in which the grantor is the Company and the beneficiary is the executive) through investments in corporate-owned life insurance. Investments in the rabbi trust remain subject to claims from the Company's general creditors. Contributions credited to an executive's account are invested as the participant directs among the investment funds actually available from time to time under the DCP. Annual amounts credited to an executive's account vest at the rate of 20% per year, subject to acceleration of vesting in the event of a change of control, death or disability, as defined under the DCP. The Company reserves the right to change its contribution to an executive's account from time to time in such amount as it may determine, as a result of changes in specified assumptions. Upon retirement, vested amounts are payable to the executive in the form of a lump sum or installments not to exceed 15 years, as elected by the executive. The Committee believes supplemental executive retirement plans such as the Defined Contribution Accounts are an important part of executive compensation and are utilized by many companies that compete with the Company for executive talent. Retirement benefits, including those provided through the Defined Contribution Accounts, are a critical component of an executive's overall compensation program and are essential to attracting and retaining talented executives. Retirement benefits are an important factor in an executive's decision to accept or reject a new position.

### ***Perquisites***

We provide certain of our Executive Officers perquisites and other personal benefits. The Compensation Committee has reviewed and approved each of the perquisites provided Executive Officers. While the Committee does not consider these perquisites to be a significant component of executive compensation, it recognizes that such perquisites are an important factor in attracting and retaining talented executives. Additional information with respect to the perquisites paid to our Executive Officers is set forth in Summary Compensation Table below.



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### ***Continuity and Employment Agreements***

The Compensation Committee believes that continuity agreements, or change in control arrangements, are necessary to attract and retain the talent necessary for our long-term success. However, the Compensation Committee does not view the payments made to our Executive Officers under the applicable continuity agreements as an additional element of compensation. Rather, the Compensation Committee believes that these commitments by the Company allow our executives to focus on duties at hand and provide security should their employment be terminated following a change in control through no fault of their own. Currently, all of our Executive Officers are parties to continuity agreements with the Company. These agreements require the Company to provide compensation to the Executive Officers in the event of a qualifying change of control of the Company followed by termination of the executive without cause or resignation by the executive for good reason. This double trigger approach results in payment under our change in control provisions only if the Executive Officer is harmed. In consideration for the payments under the continuity agreements, each executive has agreed to restrictions in their ability to compete for a period of 12 months following termination.

We believe our continuity agreements are generally consistent with those in our prevailing marketplace and are important for attracting and retaining executives whose leadership is critical to our long-term success and competitiveness. The components of our continuity agreements recognize that a significant portion of participating executives' total compensation may at any point in time consist of unvested stock options or restricted stock holdings, and that some measure of protection against possible but unpredictable actions of successor corporations is desirable for both the executive and the Company. Additionally, the structure of our continuity agreements help ensure management retention during any change in control.

With the exception of Mr. Fuller's Employment Agreement, the Company has not entered into agreements with Executive Officers that provide for severance payments related to voluntary termination; involuntary, not for cause termination unrelated to a change in control; or termination for cause. The amount of compensation payable to each Executive Officer under the continuity and employment agreements is set forth under Potential Payments upon Termination, Change of Control and Certain Other Events.

### ***Deductibility of Compensation***

Section 162(m) of the IRC generally disallows public companies from claiming a tax deduction for compensation in excess of \$1 million paid to their chief executive officer or any of the three other most highly compensated Executive Officers other than the chief financial officer. However, the statute exempts qualifying performance based compensation from the \$1 million limitation if specified requirements are met. Additionally, cash compensation voluntarily deferred by the Executive Officers named in this proxy statement under the DCP is not subject to the Section 162(m) limitation until the year paid. The tax impact of any compensation arrangement is one factor considered by the Compensation Committee in light of the Company's overall compensation philosophy and objectives, but there are circumstances where the compensation awarded to Mr. Fuller and Mr. Hellmann and other highly compensated Executive Officers may not be fully deductible to the Company. Excluding the impact of prior years' equity compensation awards, with the exception of approximately \$500,000 of compensation paid to Mr. Fuller, we do not expect the 2008 compensation awarded to Executive Officers to result in non-deductible compensation under Section 162(m) of the IRC.

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***Policy on Non-Public Information and Trading in Company Stock***

The Company's current policy permits directors, Executive Officers and other key employees to trade Company securities, including any purchases or sales of puts, calls, options or warrants, only during limited window periods following earnings releases and only after they have pre-cleared transactions with the legal department. Although we do not have a formal policy that prohibits transactions that hedge an individual's economic risk of owning shares of our common stock, we believe all such transactions by directors and Executive Officers in 2008 have been publicly disclosed.

***2009 Compensation Decisions Executive Compensation Study***

In March 2008, the Committee engaged Cook to complete a market compensation benchmarking study of the compensation paid to the senior executive team of the Company, including the Executive Officers with the exception of Mr. Fuller ( Compensation Study ). Mr. Fuller was not included in the study because his compensation is established by his Employment Agreement through December 31, 2009. The goal of the Compensation Study was to ensure the continued alignment of our executive compensation programs with the Company's business objectives and performance and to ensure that the Company's compensation programs attract, retain and reward executives who contribute to our long-term success and increase shareholder value.

The Compensation Study included the development of a peer group of 21 public companies with similar attributes to the Company, which peer group was used as an external reference point in benchmarking each element of the Company's compensation, including base salary, annual bonus opportunities, long-term equity incentives and other compensation. In that there was no publicly disclosed compensation data for the direct competitors of the Company, the peer group used for benchmarking the Executive Officers' compensation was selected based on various objective criteria, including companies with US-based operations with publicly traded stock, similar market capitalizations (with comparable valuations), comparable growth rates and earnings before interest, tax depreciation and amortization, and with similar geographic locations. The peer group included Kansas City Southern, Kirby Corp., Hexcel Corp., Wabtec Corp., Gartner Inc., Actuant Corp. CLA, Teledyne Technologies, Brady Corp., Esterline Technologies, Barnes Group, Inc., Kaydon Corp., Greenhill & Co. Inc., Tetra Technologies, Knight Transportation, Bristow Group Inc., L-1 Identity Solutions, Basic Energy Services, Heico Corp., Forward Air Corp., Triumph Group Inc., and MCG Capital Corp. At the time the peer group was selected, the Company was positioned relative to the peer group as follows: at or slightly above the 25<sup>th</sup> percentile for company size, at the median in terms of financial performance and at the 75<sup>th</sup> percentile for shareholder return.

Relative to the peer group, it was determined that the historical total compensation for Messrs. Hellmann and Gallagher were below the 25<sup>th</sup> percentile, and the other Executive Officers were generally at the 25<sup>th</sup> percentile. Following the review of the peer group data and prior to making adjustments to the 2009 compensation program, the Compensation Committee obtained performance reviews of each of the relevant Executive Officers (other than Mr. Hellmann) from Mr. Hellmann, and also completed a formal review of Mr. Hellmann's performance (including input from the Board and selected members of management). In light of the positive performance reviews for the Executive Officers and the CEO, as well as the Company's financial performance and pending acquisitions, the Compensation Committee undertook to generally align 2009 Executive Officer compensation levels with the 50<sup>th</sup> percentile of compensation for the peer group.

Subsequent to establishing the general compensation target of the 50<sup>th</sup> percentile of the peer group and prior to finalizing its compensation decisions, the Compensation Committee updated the peer

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group comparison in early December 2008. At that time, the consummation of several acquisitions by the Company during 2008 and above-market stock price performance during 2008 combined to place the Company above the 50<sup>th</sup> percentile of the peer group in total assets, market capitalization, financial performance and stockholder returns. Despite the Company's relatively strong performance in 2008 and a favorable evaluation of Mr. Hellmann's performance, Mr. Hellmann and the Compensation Committee re-evaluated the compensation targets during January and early February 2009 in light of the weak economic environment. The Compensation Committee determined that retaining the 50<sup>th</sup> percentile general compensation target remained in the Company's best interest given the below market compensation the Company's Executive Officers had received for the preceding several years and the Committee's belief that retaining and motivating the executive team was important to continued success in executing the Company's strategy. Nevertheless, in light of the weak economic environment, Mr. Hellmann requested that his total direct compensation be reduced below the general target, and the Compensation Committee established his total compensation for 2009 at the approximate 30<sup>th</sup> percentile of the peer group, which represented a \$1.2 million reduction from the 50<sup>th</sup> percentile. In addition, Mr. Fuller also voluntarily reduced his contractually established 2009 target compensation in recognition of the weak economic environment.

Set forth below is a summary of the material changes to the various elements of compensation that were approved by the Compensation Committee on February 9, 2009 for each of the Executive Officers. All changes became effective as of January 1, 2009.

**2009 Executive Officer Compensation**

Name	M. Fuller	J. Hellmann Chief Executive Officer	T.J. Gallagher Chief Financial Officer	J. Benz Chief Operating Officer	A. Fergus General Counsel	C. Liucci Chief Accounting Officer
<b>Title</b>	<b>Executive Chairman</b>	<b>Executive Officer</b>	<b>Financial Officer</b>	<b>Operating Officer</b>	<b>General Counsel</b>	<b>Accounting Officer</b>
<b>2009 Base Salary</b>	\$ 708,923	\$ 703,000	\$ 405,000	\$ 348,000	\$ 300,000	\$ 194,580
\$ Change from 2008	\$ 20,648	\$ 155,000	\$ 86,000	\$ 81,000	\$ 50,000	\$ 6,580
<b>2009 Target Cash Bonus</b>	\$ 354,462	\$ 562,400	\$ 243,000	\$ 208,800	\$ 150,000	\$ 68,103
2009 Target Bonus as a % of Base Salary	50%	80%	60%	60%	50%	35%
2008 Target Bonus as a % Base Salary	50%	70%	50%	50%	40%	35%
\$ Change from 2008	\$ 10,324	\$ 178,800	\$ 83,500	\$ 75,300	50,000	\$ 2,303
<b>Total Target Annual Cash Compensation</b>	\$ 1,063,385	\$ 1,265,400	\$ 648,000	\$ 556,800	\$ 450,000	\$ 262,683
<b>2009 Long-Term Incentives (LTI) (1)</b>	\$ 433,546	\$ 1,230,250	\$ 607,500	\$ 522,000	\$ 300,000	\$ 163,447
2009 LTI as a % of Base Salary	61%	175%	150%	150%	100%	84%
2008 LTI as a % of Base Salary	75%	140%	140%	140%	100%	100%
\$ Change from 2008	\$ (82,670)	\$ 462,280	\$ 160,900	\$ 148,200	\$ 50,000	\$ (24,553)
<b>Total Target Direct Compensation</b>	\$ 1,496,931	\$ 2,495,650	\$ 1,255,500	\$ 1,078,800	\$ 750,000	\$ 426,130
<b>Other Compensation (2)</b>	\$ 367,838	\$ 96,200	\$ 96,800	\$ 115,800	\$ 64,800	\$ 54,800
<b>Total Target Compensation</b>	\$ 1,864,769	\$ 2,591,850	\$ 1,352,300	\$ 1,194,600	\$ 814,800	\$ 480,930
\$ Change from 2008	\$ (71,226)	\$ 796,880	\$ 331,200	\$ 309,300	\$ 205,800	\$ 34,130

(1) As of 2009, long-term incentives will be awarded in four equal installments on February 28<sup>th</sup>, May 31<sup>st</sup>, August 31<sup>st</sup> and November 30<sup>th</sup>.

(2) Some of the amounts included in Other Compensation are estimated based on historical costs.

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**COMPENSATION COMMITTEE REPORT**

We have reviewed and discussed the foregoing Compensation Discussion and Analysis with management. Based on our review and discussions with management, we have recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this proxy statement and in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

*Compensation Committee*

Mark A. Scudder, *Chairman*

David C. Hurley

Robert M. Melzer

**Table of Contents****SUMMARY COMPENSATION TABLE (1)**

The following table and footnotes set forth information for the years ended December 31, 2008, 2007 and 2006 concerning compensation awarded to, earned by or paid to our Executive Officers.

Name & Principal Position	Year	Salary	Bonus (2)	Stock Awards (3)	Option Awards (4)	Non-Equity Incentive Plan Compen- sation (5)	Change in Pension Value and Non- Qualified Deferred Compen- sation Earnings (6)	All Other Compen- sation (7)	Total
Mortimer B. Fuller, III Executive Chairman	2008	\$ 688,275	\$	\$ 397,828	\$ 415,362	\$ 440,222	\$	\$ 387,287	\$ 2,328,974
	2007	665,000		405,360	555,421	507,000		387,366	2,520,147
	2006	644,000	740,311	274,989	1,840,431	171,836		459,545	4,131,112
John C. Hellmann President and Chief Executive Officer	2008	548,550		297,324	467,348	491,196		105,056	1,909,474
	2007	495,000(8)		264,252	430,986	471,000(9)		95,461	1,756,699
	2006	428,700(8)	422,417	180,863	1,113,566	98,049(9)		110,658	2,354,253
Timothy J. Gallagher Chief Financial Officer	2008	318,780		132,394	277,666	203,892		105,433	1,038,165
	2007	308,000		107,409	228,464	196,000		96,907	936,780
	2006	296,000	167,733	61,575	245,408	56,415		91,893	919,024
James W. Benz Chief Operating Officer	2008	267,030		107,919	222,234	223,366	15,274	99,330	935,153
	2007	256,900		91,282	205,790	232,000	14,616	456,607	1,257,195
	2006	228,431	125,867	61,742	267,077	45,836	23,060	18,625	770,638
Allison M. Fergus General Counsel and Secretary	2008	250,000		36,998	162,687	114,510		12,368	576,563
	2007	216,676		12,940	97,589	86,000		9,141	422,346
	2006	168,741			21,376	50,213			240,330
Christopher F. Liucci Chief Accounting Officer	2008	188,000		36,973	106,714	80,283		12,158	424,128
	2007	179,250		19,315	56,216	70,000		5,385	330,166
	2006	118,673		7,897	22,795	40,511		24	189,900

- (1) Salary and bonuses are reported in the year in which the compensable service was performed even if we paid the compensation in a subsequent year or if the executive elected to defer a portion of such compensation.
- (2) Includes one-time Transaction Bonuses paid in 2006 based on the successful completion and shareholder value generated from the sale by the Company and its 50% joint venture partner, Wesfarmers Limited, of the Western Australia operations and other assets of the Australian Railroad Group Pty Ltd and its subsidiaries ( ARG ) to Queensland Rail and Babcock & Brown Limited and the purchase of Wesfarmers 50% ownership of the remaining ARG operations, which are principally located in South Australia (collectively, the Australian Transactions ).
- (3) The amounts included in the Stock Awards column reflect the compensation expense for restricted stock and restricted stock units recognized by us in 2008, 2007 and 2006 for financial statement purposes with respect to stock awards granted in those years and in prior years in accordance with SFAS 123R. Mr. Fuller received restricted stock units until 2005. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For discussion of the assumptions made in the valuation of these awards, refer to Note 15 to our consolidated financial statements for the fiscal year ended December 31, 2008. Stock Awards consist of restricted stock which vested in 2008, 2007 and 2006. Amounts for 2006 for Messrs. Fuller, Hellmann, Gallagher and Benz include a one-time Transaction Bonus paid based on the successful completion and shareholder value generated in connection with the Australian Transactions.
- (4) The amounts included in the Option Awards column reflect the compensation expense of stock options recognized by us in 2008, 2007 and 2006 for financial statement purposes with respect to stock options granted in those years and in prior years in accordance with SFAS 123R. Pursuant to SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. For discussion of the assumptions made in the valuation of these options refer to Note 15 to our consolidated financial statements for the fiscal

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- year ended December 31, 2008. The SFAS 123R fair value of the options determined on the grant date is expensed over the service period that is required for the grant to become vested. Amounts for 2006 for Messrs. Fuller, Hellmann, Gallagher and Benz include a one-time Transaction Bonus paid based on the successful completion and shareholder value generated in connection with the Australian Transactions.
- (5) For 2008, the amounts reflect the cash bonuses paid under the Annual Incentive Compensation Program based on targets that were established in early 2008 by the Compensation Committee and paid in February and March 2009; and for 2007,

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based on targets that were established in early 2007 by the Compensation Committee and paid in February 2008; and for 2006, based on targets that were established in early 2006 by the Compensation Committee and paid in February 2007. For a discussion of the Annual Incentive Compensation Program, see Executive Compensation Compensation Discussion and Analysis Annual Incentive Compensation Program Cash Bonuses.

- (6) The amounts included represent the increase in Mr. Benz's actuarial accumulated pension benefit from fiscal year 2007 to fiscal 2008, fiscal 2006 to fiscal 2007 and fiscal 2005 to fiscal year 2006 in the Rail Link Inc. Retirement Plan ( *Rail Link Plan* ). For additional information, see 2008 Pension Benefits below.
- (7) The following table details each item of compensation of our Executive Officers for the fiscal years ended December 31, 2008, required to be included in the All Other Compensation column:

Name	Insurance Premiums and Gross Ups(\$)(a)	Company Contributions to Retirement 401(k)(b)	Company Contribution to Defined Plan	Auto (c)	Travel (d)	Other (e)	Total
Mortimer B. Fuller III	\$ 348,038	\$ 9,200	\$	\$ 5,493	\$ 4,128	\$ 20,428	\$ 387,287
John C. Hellmann		9,200	64,148	23,735	1,027	6,946	105,056
Timothy J. Gallagher		9,200	68,384	21,276		6,573	105,433
James W. Benz	70,846	9,200		9,346	806	9,132	99,330
Allison M. Fergus		9,200				3,168	12,368
Christopher F. Liucci		9,200				2,958	12,158

- (a) Amounts shown refer to Messrs. Fuller and Benz for premium payments on a modified split-dollar life insurance policy. The amounts included an additional tax gross up payment. Of the total payments received by Mr. Fuller, \$208,823 was for the payment of the insurance premium during the year, and the remaining \$139,215 was for tax gross up payments during the year. Of the total payments received by Mr. Benz, \$44,208 was for the payment of the insurance premium during the year, and the remaining \$26,638 was for tax gross up payments during the year. We are not entitled to receive reimbursement of the amounts that Messrs. Fuller and Benz used to pay these insurance premiums on the modified split-dollar life insurance policy.
- (b) Amounts shown refer to the Company's matching contributions to the Company's 401(k) Plan.
- (c) Amounts shown reflect cash payments for annual automobile expenses. Mr. Benz receives a monthly cash car allowance. Amounts for Messrs. Fuller, Hellmann and Gallagher reflect car leases, fuel, insurance and repairs paid on their behalf. In addition, Mr. Hellmann's balance includes \$14,247 of personal parking expenses, of which \$10,972 relates to personal parking expenses for the years 2003 through 2007.
- (d) Amount shown for Messrs. Fuller, Hellmann and Benz represent personal travel expenses.
- (e) The amount shown for Mr. Fuller represents the incremental cost for excess group life insurance and an additional term life policy, long-term disability premiums, tax preparation fees and club dues. Amount shown for Mr. Hellmann represents the incremental cost for excess group life insurance and an additional term life policy and long-term disability insurance premiums. Amount shown for Mr. Gallagher represents the incremental cost for excess group life insurance and an additional term life policy, long-term disability insurance premiums and health club dues. Amounts shown for Mr. Benz, Ms. Fergus and Mr. Liucci represent the incremental cost for excess group life insurance and long-term disability insurance premiums.

(8) Includes \$60,000 and \$48,000 of annual salary in 2007 and 2006, respectively, that was deferred.

(9) Includes \$235,326 and \$49,000 of incentive compensation in 2007 and 2006, respectively, that was deferred.

**Table of Contents****2008 GRANTS OF PLAN-BASED AWARDS**

The following table provides information relating to grants of plan-based awards during the year ended December 31, 2008.

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards			All Other Stock Awards: Number of Shares of Stock or Units (2)	All Other Option Awards: Number of Securities Underlying Options(3)	Exercise or Base Price of Option Awards (\$/Sh)	Grant Date Fair Value of Stock and Option Awards (4)
		Threshold	Target (1)	Maximum				
Mortimer B. Fuller, III		\$ 0	\$ 344,138	\$ 688,275				
	5/27/2008				3,963		\$ 154,874	
	5/27/2008					30,075	\$ 39.08(5)	
	5/27/2008					2,558	42.99(5)	
John C. Hellmann		\$ 0	383,985	767,970				
	5/27/2008				5,895		230,377	
	5/27/2008					48,084	39.08	
Timothy J. Gallagher		\$ 0	159,390	318,780				
	5/27/2008				3,426		133,888	
	5/27/2008					27,943	39.08	
James W. Benz		\$ 0	133,515	267,030				
	5/27/2008				2,870		112,160	
	5/27/2008					23,407	39.08	
Allison M. Fergus		\$ 0	100,000	150,000				
	5/27/2008				1,919		74,995	
	5/27/2008					15,653	39.08	
Christopher F. Liucci		\$ 0	65,800	98,700				
	5/27/2008				1,443		56,392	
	5/27/2008					11,771	39.08	

- (1) The target is established under our annual incentive compensation plan. For additional information, see Executive Compensation Compensation Discussion and Analysis.
- (2) Consists of restricted stock awards granted on May 27, 2008 under our long-term equity incentive compensation plan.
- (3) Consists of stock options granted on May 27, 2008 under our long-term equity incentive compensation plan.
- (4) This column shows the full grant date fair value of restricted stock awards and stock options granted in 2008 under SFAS 123R. The grant date fair value is the amount that the Company will expense in its financial statements over the award s required period of service, not taking into account any estimated forfeitures as required under SFAS 123R.
- (5) Pursuant to Sections 422(b) and 422(c) of the IRC, incentive stock options cannot be granted to employees that, at the time of grant, own stock representing more than 10% of the total combined voting power of all classes of outstanding stock of the Company unless such option is granted at an option price of at least 110% of the fair market value of the common stock underlying the option and such option by its terms is not exercisable after the expiration of five years from the date of grant. Since Mr. Fuller owned more than 10% of the total combined voting power of all classes of outstanding stock of the Company on May 27, 2008, the date of his 2008 option grant, his incentive stock options were granted with an exercise price of 110% of the fair market value of such stock on the date of grant. The additional shares awarded to Mr. Fuller on May 27, 2008 were non-qualified stock options and were granted with an exercise price equal to the fair market value of the stock on the date of grant.



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### **Narrative Supplement To The Summary Compensation Table And The Grants Of Plan-Based Awards In 2008 Table**

#### ***Terms of Equity-Based Awards***

##### ***Vesting Schedule***

In February 2009, the Compensation Committee approved certain changes to the Company's policies with respect to equity awards. The Compensation Committee moved the annual equity award to employees from May to February of each year to align the equity awards with the annual compensation decisions. Option awards and restricted stock awards granted prior to 2009 vest over three years following the date of grant with one-third of the common shares underlying the award becoming exercisable on each of the first, second and third anniversaries of the grant date, subject to acceleration upon a change of control for Executive Officers and other key personnel. Awards made after February 2009 will be made in four equal quarterly grants during the year and vest over three years following the date of grant on the anniversary of the first quarterly grant for such year, subject to acceleration upon a change of control for Executive Officers and other key personnel. Each quarterly grant of stock options has a five-year life.

##### ***Forfeiture***

Absent death or disability, unvested option awards are generally forfeited at termination of employment following a 90-day post-termination exercise period. In the event of death prior to the complete exercise of a vested option award, the vested portion of the option may be exercised in whole or in part, within one year after the date of death by the designated beneficiary, in all cases, prior to the option expiration. In the event of disability prior to the complete exercise of the vested option award, the vested portion of the option may be exercised in whole or in part prior to the option expiration. With respect to restricted stock awards, in the event of termination or death, the unvested portion of any restricted stock award is forfeited. In the event of disability, the Compensation Committee has discretion to promulgate rules regarding the treatment of unvested restricted stock awards. In 2007, the Company entered into continuity agreements with key employees, including the Executive Officers, that provide for the vesting of otherwise unvested option awards in the circumstances described under Potential Payments Upon Termination, Change Of Control And Certain Other Events.

##### ***Covenants***

The stock option awards and restricted stock awards for Executive Officers and other key employees include confidentiality and non-compete obligations, which if violated result in a forfeiture of unexercised options and disgorgement of any gains on option awards and restricted stock awards during the previous six months. The option awards and restricted stock awards for Executive Officers are also subject to acceleration of vesting upon a change in control.

##### ***Other***

Option awards granted under the Omnibus Plan have an exercise price equal to the closing price of the underlying shares on the date of grant. With the exception of restricted stock units, prior to the vesting of restricted stock awards, holders of such awards have all other rights of a stockholder with respect to the shares underlying the award, including, but not limited to, the right to receive cash dividends, if any, and the right to vote the common shares underlying the award at any meeting of our stockholders. Holders of restricted stock units do not have any stockholder rights with respect to the common shares underlying the award until such unit vests and the underlying shares are issued. All equity award grants to Executive Officers are approved by the Compensation Committee.

**Table of Contents*****Executive Chairman Employment Agreement***

On May 30, 2007, the Company entered into an employment agreement with Mr. Fuller ( *Employment Agreement* ) that commenced on June 1, 2007 and will terminate on December 31, 2009, unless renewed for an additional calendar year upon the mutual agreement of the Company and Mr. Fuller ( *the Employment Period* ). Pursuant to the Employment Agreement, Mr. Fuller will serve as Executive Chairman of the Company and report exclusively to the Board. Mr. Fuller received an annual base salary of \$665,000 for 2007 (retroactive to January 1, 2007), which was subject to adjustment for 2008 and 2009 in accordance with the cost-of-living policies generally applicable to employees of the Company. In addition, Mr. Fuller will be eligible to earn an annual cash bonus in accordance with our annual incentive compensation program. For 2007, Mr. Fuller's target bonus under our annual incentive compensation program was set at 60% of his base salary. For 2008 and 2009, Mr. Fuller's target annual bonus will be 50% of his then annual base salary. During the Employment Period, Mr. Fuller will also be eligible to (1) receive annual grants of equity incentive awards under our long-term incentive compensation program, subject to the discretion of the Compensation Committee, and perquisites and benefits customarily paid to Executive Officers and (2) participate in the Company's benefit plans, as generally applicable to other Executive Officers. The Company has agreed to continue to pay Mr. Fuller, from 2007 through the calendar year in which Mr. Fuller attains age 70, subject to specified exceptions, an amount equal to the premiums (including taxes due on the account of such premiums) on life insurance policies currently funded by the Company for Mr. Fuller.

In the event the Company terminates the employment of Mr. Fuller without Cause or Mr. Fuller terminates his employment for Good Reason (as such terms are defined in the Employment Agreement), except in cases relating to a change of control of the Company, Mr. Fuller shall be entitled to receive (1) the accrued but unpaid amounts of salary, annual bonus, vacation time and other applicable benefits, and, subject to his execution of a general release of all claims, (2) a cash lump sum payment in an amount equal to 300% of his then base salary, (3) full vesting of all outstanding equity awards to the extent provided for under existing plans and award agreements, provided that any unvested stock award granted on June 2, 2006 as a bonus to Mr. Fuller in connection with the Australian Transactions will fully vest notwithstanding any contrary provisions in the applicable plan or award agreement, (4) payment by the Company of all annual premiums (and related taxes due on account of such premiums) for Mr. Fuller's life insurance coverage until Mr. Fuller attains age 70 and (5) payment by the Company of all premiums payable with respect to Medicare supplemental insurance for Mr. Fuller and his dependents ending on the third anniversary of the termination date. The amounts payable to Mr. Fuller under his Employment Agreement in these circumstances are set forth under Potential Payments Upon Termination, Change of Control and Certain Other Events Payments Upon Termination of Executive Chairman Employment Agreement. In the event of a change of control of the Company, Mr. Fuller's Employment Agreement provides that the amounts payable to him are governed by his continuity agreement. The amounts payable to Mr. Fuller in the event of a change of control under his continuity agreement are set forth under Potential Payments Upon Termination, Change of Control and Certain Other Events, Payments Under Change of Control.

Mr. Fuller has agreed that upon expiration of the Employment Period (and providing there is no early termination), Mr. Fuller will provide transitional services to the Company at a rate of \$10,000 per month as (1) an independent contractor until December 31 of the year in which Mr. Fuller attains age 75 or (2) upon approval of the CEO of the Company, as an at-will employee of the Company until the earlier of his resignation or the end of calendar year in which Mr. Fuller attains age 72. Mr. Fuller has further agreed that during the Employment Period and any transitional period and for a period of two years from the later of his employment termination date or last day of the transitional period, he will

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not, directly or indirectly, compete with the business of, solicit employees of, or induce business relations to cease doing business with the Company or its subsidiaries. Mr. Fuller will also have those indemnification rights during the Employment Period and following the Employment Period that are available to other current and former officers and directors of the Company.

In consideration for the payments and benefits under the Employment Agreement, Mr. Fuller has agreed to release, and waive claims against, the Company and its subsidiaries arising out of his employment or termination thereof, subject to specified exceptions.

**OUTSTANDING EQUITY AWARDS AT FISCAL YEAR END 2008**

The following table provides information regarding outstanding equity awards held by our Executive Officers at December 31, 2008.

Name	Option Grant Date (1)	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Awards		Options Exercise Price	Option Expiration Date	Unrealized Value of Unexercised Options Exercisable (2)	Unrealized Value of Unexercised Options Unexercisable (2)
				Equity Incentive Plan Awards:	Number of Securities Underlying Unexercised Options (#)				
Mortimer B. Fuller, III	5/30/06	40,163	16,682			\$ 29.41	5/29/2011	\$ 43,778	\$ 18,183
	5/30/06		3,400			32.35	5/29/2011		
	6/2/06	136,476				30.37	6/1/2011	17,742	
	5/30/07	12,362	24,722			32.35	5/29/2012		
	5/30/07		3,091			35.59	5/29/2012		
	5/27/08		30,075			39.08	5/26/2013		
	5/27/08		2,558			42.99	5/26/2013		
		189,001	80,528					\$ 61,520	\$ 18,183
John C. Hellmann	5/12/04	56,250				\$ 15.63	5/11/2009	\$ 836,252	\$
	5/18/05	65,385				16.60	5/17/2010	908,852	
	5/30/06	33,508	16,754			29.41	5/29/2011	36,524	18,262
	6/2/06	77,872				30.37	6/1/2011	10,123	
	5/30/07	19,924	39,846			32.35	5/29/2012		
	5/27/08		48,084			39.08	5/26/2013		
		252,939	104,684					\$ 1,791,751	\$ 18,262
Timothy J. Gallagher	5/18/05	41,913				\$ 16.60	5/17/2010	\$ 582,591	\$
	5/30/06	19,319	9,660			29.41	5/29/2011	21,058	10,529
	6/2/06	13,252				30.37	6/1/2011	1,723	
	5/30/07	11,165	22,329			32.35	5/29/2012		
	5/27/08		27,943			39.08	5/26/2013		
		85,649	59,932					\$ 605,372	\$ 10,529
James W. Benz	5/12/04	16,876				\$ 15.63	5/11/2009	\$ 250,890	\$
	5/18/05	34,928				16.60	5/17/2010	485,499	
	5/30/06	15,403	7,702			29.41	5/29/2011	16,789	8,395
	6/2/06	9,944				30.37	6/1/2011	1,293	
	5/30/07	9,352	18,704			32.35	5/29/2012		
	5/27/08		23,407			39.08	5/26/2013		
		86,503	49,813					\$ 754,471	\$ 8,395
Allison M. Fergus	11/7/05	1,500				\$ 22.41	11/6/2010	\$ 12,140	\$
	5/30/06	4,000	2,000			29.41	5/29/2011	4,360	2,180
	10/26/06	10,000	5,000			28.75	10/25/2011	17,500	8,750
	5/30/07	5,908	11,814			32.35	5/29/2012		

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	5/27/08	15,653	39.08	5/26/2013		
	21,408	34,467			\$ 34,000	\$ 10,930
Christopher F. Liucci	3/29/06	6,667	3,333	\$ 31.09	3/28/2011	\$
	5/30/07	4,109	8,216	32.35	5/29/2012	
	5/27/08		11,771	39.08	5/26/2013	
	10,776	23,320			\$	\$

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Name	Stock Award Date (3)	Number of Shares or Units of Stock That Have Not Vested (#)	Stock Awards		Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested
			Market Value of Shares or Units of Stock That Have Not Vested (4)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	
Mortimer B. Fuller, III	5/30/06	2,447	\$	74,634	
	6/2/06	5,688		173,484	
	5/30/07	3,083		94,032	
	5/27/08	3,963		120,872	
		15,181	\$	463,022	
John C. Hellmann	5/30/06	2,042	\$	62,281	
	6/2/06	3,245		98,973	
	5/30/07	4,587		139,904	
	5/27/08	5,895		179,798	
		15,769	\$	480,956	
Timothy J. Gallagher	5/30/06	1,208	\$	36,844	
	6/2/06	552		16,836	
	5/30/07	2,570		78,385	
	5/27/08	3,426		104,493	
		7,756	\$	236,558	
James W. Benz	5/30/06	963	\$	29,372	
	6/2/06	414		12,627	
	5/30/07	2,153		65,667	
	5/27/08	2,870		87,535	
		6,400	\$	195,201	
Allison M. Fergus	5/30/07	1,360	\$	41,480	
	5/27/08	1,919		58,530	
		3,279	\$	100,010	
Christopher F. Liucci	3/29/06	333	\$	10,157	
	5/30/07	946		28,853	
	5/27/08	1,443		44,012	
		2,722	\$	83,022	

(1) All option awards were granted under the Omnibus Plan. The vesting schedule for the option awards is set forth below. For additional information on the acceleration of vesting, see Narrative Supplement to the Summary Compensation Table and 2008 Grants of Plan-Based Awards Table.

5/12/04	1/3 vests each year for three years on the anniversary of the date of grant.
5/18/05	1/3 vests each year for three years on the anniversary of the date of grant.
11/7/05	1/3 vests each year for three years on the anniversary of the date of grant.
5/30/06	1/3 vests each year for three years on the anniversary of the date of grant.
10/26/06	1/3 vests each year for three years on the anniversary of the date of grant.
6/2/06	Fully vested upon grant.
5/30/07	1/3 vests each year for three years on the anniversary of the date of grant.
5/27/2008	1/3 vests each year for three years on the anniversary of the date of grant.

(2)

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The unrealized value of in-the-money exercisable and unexercisable options was calculated by multiplying the number of shares underlying each category by the closing price of our stock as of December 31, 2008 of \$30.50 and then deducting the aggregate exercise price of these options.

- (3) All restricted stock awards were granted under the Omnibus Plan. One-third of each award vests each year for three years on the anniversary of the date of grant. For additional information on the acceleration of vesting, see Narrative Supplement to the Summary Compensation Table and 2008 Grants of Plan-Based Awards Table.
- (4) The market value of stock awards that have not vested was calculated using the closing stock price on the last business day of the Company's 2008 fiscal year, December 31, 2008, of \$30.50.

**Table of Contents****OPTION EXERCISES AND STOCK VESTED DURING 2008**

The following table provides information regarding the amounts received by each Executive Officer upon exercise of options or the vesting of restricted stock or restricted stock units during the year ended December 31, 2008.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (1)	Number of Shares Acquired on Vesting (#)	Value Realized On Vesting (2)
Mortimer B. Fuller, III	217,827	\$ 5,710,077	14,012	\$ 564,121
John C. Hellmann	67,501	2,083,081	10,478	422,467
Timothy J. Gallagher			4,903	196,777
James W. Benz	18,001	378,741	4,002	160,560
Allison M. Fergus			680	27,758
Christopher F. Liucci			806	30,816

- (1) Option award value realized on exercise was calculated by multiplying the number of shares acquired upon exercise by the closing price of our stock on the exercise date and then deducting the aggregate exercise price of the option awards.
- (2) Stock awards value realized on vesting was calculated by multiplying the number of shares acquired upon vesting by the closing price of our stock on the vesting date.

**2008 PENSION BENEFITS**

The following table provides information regarding the pension benefits for our Executive Officers.

Name	Plan Name	Number of Years Credited Service (#)	Present Value of Accumulated Benefit	Payments During Last Fiscal Year
Mortimer B. Fuller, III			\$	\$
John C. Hellmann				
Timothy J. Gallagher				
James W. Benz	Rail Link Retirement Plan (1)	14.89(2)	334,750(3)	
Allison M. Fergus				
Christopher F. Liucci				

- (1) The Rail Link Retirement Plan, or Rail Link Plan, is a defined benefit pension plan sponsored by Rail Link, Inc., a wholly-owned subsidiary of the Company. The Rail Link Plan covers approximately 72 Rail Link, Inc. eligible employees as of December 31, 2008. The accumulated benefit an employee earns over his or her career with Rail Link, Inc. is payable starting after retirement on a monthly basis for life. The normal retirement age defined in the Rail Link Plan is 62. Mr. Benz is currently eligible for early retirement under the Rail Link Plan, subject to a 5% benefit reduction for each year that he retires prior to attaining age 62.
- (2) Under the Rail Link Plan, Mr. Benz accumulated 5.25 creditable service years while working for the Company from November 8, 1996 until the Rail Link Plan was frozen on January 31, 2002 and 9.64 years of service as President of Rail Link, Inc. before Rail Link Inc. was purchased by the Company in November 1996.
- (3) All benefit accruals under the Rail Link Plan were frozen as of January 31, 2002. As applicable to Mr. Benz, the Rail Link Plan provides benefits based primarily on a formula that takes into account the executive's earnings for each fiscal year. The formula provides an annual benefit accrual equal to 1.0% of the five-year average earnings of the individual and 0.5% of the Excess Amount of compensation. Excess Amount is defined as the five-year average earnings in excess of the social security average wage. For discussion of the assumptions made in quantifying the present value of the accrued benefit, refer to Note 11 to our consolidated financial statements for the fiscal year ended December 31, 2007. The executive's annual earnings taken into account under this formula include base salary and up to one-half of any bonus payments. The maximum annual benefit for Mr. Benz is frozen at \$28,145 annually (\$2,345 monthly) payable after retirement. Upon retirement, Mr. Benz may elect payment in the form of either a single life annuity or a joint and survivor annuity. While these two options would provide different annual benefit amounts to Mr. Benz (and his spouse, in the event he selects the joint and survivor annuity option),

the total actuarial value of the two elections is equivalent over the life of the selected annuity.



**Table of Contents****NONQUALIFIED DEFERRED COMPENSATION FOR 2008 (1)**

The following table provides information regarding contributions, earnings and balances for our Executive Officers under our nonqualified deferred compensation plans for the year ended December 31, 2008.

Name	Executive Contribution in Last Fiscal Year (2)	Registrant Contributions in Last Fiscal Year (3)	Aggregate Earnings in Last Fiscal Year (4)	Aggregate Withdrawals/ Distributions	Aggregate Balance at Last Fiscal Year End (5)
Mortimer B. Fuller, III	\$	\$	\$	\$	\$
John C. Hellmann	235,326	64,148	(343,814)		558,238
Timothy J. Gallagher		68,384	(72,883)		150,606
James W. Benz			(21,166)		37,074
Allison M. Fergus					
Christopher F. Liucci					

- The DCP was implemented in 2004 and allows certain employees, including the Executive Officers, to defer receipt of their salary and/or annual incentive payments into accounts that mirror gains and/or losses of several different investment funds we have selected. The investment funds offered are similar but not identical to those offered under our 401(k) Plan. The DCP does not offer above market interest rate returns or permit participants to defer their cash compensation into our common stock. Participant deferrals must be elected annually, with limits of 50% on base salary and 100% on bonus payments with a minimum aggregate deferral of \$2,000. Investment choices may be reallocated on a daily basis, but if selections are not made, the amounts deferred will automatically be allocated to the lowest-risk fund. Accounts are adjusted daily based on the performance of each measurement fund that is selected for the participant's account and the account is 100% vested at the time of deferral. Participant deferral elections are irrevocable and cannot be changed during the plan year. However, there are circumstances, such as an unforeseeable financial emergency, that can be considered for suspending a participant's current deferral election. The benefit distribution date selected may be either: (1) separation of service, (2) the attainment of whatever age specified, (3) the earlier of (a) separation of service or (b) the attainment of whatever age specified, or (4) the later of (a) separation of service, or (b) the attainment of whatever age specified. If a distribution date is not specified, the benefit distribution date will be separation of service. The form of payment selected for an employee's distribution is either a lump sum or annual installments over any period an employee elects, not to exceed 15 years. No withdrawals or distributions were made in 2008. The DCP does allow for Company contributions and is the instrument used to allow Company contributions into the Defined Contribution Accounts. Executive Officer and Company contributions are set forth in the Summary Compensation Table.
- Amount represents \$235,326 deferral election of Mr. Hellmann's 2007 annual incentive compensation, which was paid in 2008.
- The amounts represent the Company contributions into the Defined Contribution Accounts for Mr. Hellmann and Mr. Gallagher. For Mr. Hellmann, \$64,148 represents the Company's contribution into his Defined Contribution Account as reflected in the Summary Compensation Table in the All Other Compensation column. For Mr. Gallagher, \$68,384 represents the Company's contribution into his Defined Contribution Account as reflected in the Summary Compensation Table in the All Other Compensation column. These contributions vest proportionately over a five-year period, subject to acceleration of vesting in the event of a change of control, death or disability, as defined under the DCP. For additional information on the DCP Plan see Executive Compensation Compensation Discussion and Analysis Other Compensation Deferred Compensation Plan.
- Earnings on Mr. Hellmann's personal contributions vest immediately. Earnings on the Company contributions made on behalf of Messrs. Hellmann and Gallagher vest over a five-year period, or earlier upon a change of control. Earnings on Mr. Benz's account are fully vested. While the contribution amounts for Messrs. Hellmann and Gallagher are reported in the Summary Compensation Table, the earnings for all three Executive Officers are not, as all earnings in the Defined Contribution Accounts are not considered above market or preferential. Earnings are calculated based on the performance of some or all of the following funds: American Funds IS Global Small Cap, American Funds IS Growth, American Funds IS US Govt/AAA Securities, Delaware VIP Small Cap Value, DWS VIT Equity 500 Index, Fidelity VIP Contrafund, Fidelity VIP Asset Manager, Fidelity VIP Equity Income, Fidelity VIP Growth, Fidelity VIP Midcap, Janus Aspen Series Flexible Bond, LVIP Mondrian International Value and LVIP Money Market, based on the executive's investment allocation. In 2008, the Executive Officers selected the American Funds IS Global Small Cap, American Funds IS Growth, DWS VIT Equity 500 Index, Fidelity VIP Contrafund, Fidelity VIP Midcap, Janus Aspen Series Flexible Bond, and the LVIP Mondrian International Value, which funds yielded (53.52%), (43.97%), (37.15%), (42.61%), (39.51%), 5.71% and (36.66%), respectively for fiscal year 2008.
- Amounts represent the balance of the Executive Officer's individual account as of December 31, 2008. For Mr. Hellmann, \$235,326 of annual incentive compensation for 2007 (paid in 2008) and \$64,148 of Company contributions to his Defined Contribution Account are disclosed in the Summary Compensation Table in the Non-Equity Incentive Plan Compensation and All Other Compensation columns, respectively. For Mr. Gallagher, \$68,384 of Company contributions to his Defined Contribution Account are disclosed in the Summary Compensation Table in the All Other Compensation column. For Mr. Benz, none of his aggregate balance relates to 2008 compensation, and therefore no amounts are disclosed in the Summary Compensation Table. As of December 31, 2008, the vested portion of Mr. Hellmann's aggregate balance was \$482,846, a portion of which represents Mr. Hellmann's personal contributions, which are immediately vested. As of December 31, 2008, the vested portion of Messrs. Gallagher and Benz's accounts were \$62,034 and \$37,074, respectively. Of contributions made by Mr. Hellmann or by the Company on his behalf, \$740,316 was previously reported in the Summary Compensation Table. Of contributions made by the Company on Mr. Gallagher's behalf, \$136,768 was previously reported in the Summary Compensation Table. Of contributions made by Mr. Benz, \$36,613 was previously reported in the Summary Compensation Table.



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**Potential Payments Upon Termination, Change Of Control And Certain Other Events**

***Payments under Change of Control***

The continuity agreements with each of our Executive Officers, other than the Executive Chairman, provide that upon termination of their employment without cause or resignation for good reason within three years following a change in control, (1) Mr. Hellmann, Mr. Gallagher, Mr. Benz and Ms. Fergus will receive a cash severance amount equal to their accrued but unpaid annual incentive compensation plus three times the sum of their current salary plus target annual incentive compensation for that year, and (2) Mr. Liucci will receive a cash severance amount equal to his accrued but unpaid annual incentive compensation plus one times the sum of his current salary plus target annual incentive compensation for that year. Pursuant to his Employment Agreement, Mr. Fuller will receive a cash severance amount equal to his accrued but unpaid annual incentive compensation plus three times the sum of his current salary plus target annual incentive compensation for that year; provided that Mr. Fuller is employed under the initial or subsequent renewal periods set forth in his Employment Agreement.

A change in control is deemed to occur if: a person or outside group becomes a beneficial owner (defined as 35% ownership) and their ownership is greater than our founder and Executive Officers; a merger, sale of 51% or greater of the Company's assets, liquidation or dissolution of the Company occurs; or our incumbent Board of Directors ceases to be a majority in any successor of the Company during a 12-month period. In addition, upon termination without cause or resignation for good reason within three years following a change in control, all unvested stock options and restricted stock holdings immediately become vested, and any unvested balance under the DCP plan is accelerated to the extent such acceleration does not take place under the applicable plan documents. Termination without cause by the Company or resignation for good reason by an executive occurs if: the executive's duties, titles or responsibilities decrease after a change in control; the executive's base salary, annual incentive target, or annual equity target is decreased after a change in control; the executive's work location changes to a different location more than 35 miles from their prior work location after a change in control; or the successor Company fails to assume and perform the provisions under the continuity agreements.

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The Company will conditionally pay the 20% excise tax for excess parachute payments and will gross up the resulting income tax due for Mr. Hellmann, Mr. Gallagher and Mr. Benz if their resulting change in control payment is more than 10% above the safe harbor limit of three times the base amount under Section 280G of the IRC. The base amount is defined as the average W-2 earnings of the executive in the last five years. A change in control payment that is up to 10% above the safe harbor limit will not result in payment of the excise tax and tax gross up, but instead will result in a reduction of the payment to the safe harbor limit less one dollar. Mr. Fuller, Ms. Fergus and Mr. Liucci are not provided conditional payments of resulting excise tax for excess parachute payments and related income tax, but are entitled to receive the greater of the after-tax change in control payment, including their payment of the 20% excise tax for excess parachute payments, or the after tax safe harbor limit less one dollar. This election is referred to as the **Best After-Tax Provision** in the table below. The payments set forth below assume a December 31, 2008 trigger event and include amounts received by each Executive Officer in the event of a change of control and in the event of a change of control followed by termination.

Name/Event	Cash Severance Payment (1)	Acceleration of Unvested DCP Amounts	Acceleration of Unvested Options (2)	Acceleration of Unvested Restricted Stock (3)	Gross Payment Before Applying Tax Gross-Up Provisions	Adjustment for Best After-Tax Provision (4)	Adjustment for Payment of Excise Tax and Tax Gross Up (5)	Total
Mortimer B. Fuller, III								
Change of Control (6)	\$	\$	\$ 18,183	\$ 463,022	\$	\$	\$	\$ 481,205
Change of Control Followed by Termination (7)	3,603,411		18,183	463,022	4,084,616			4,084,616
John C. Hellmann								
Change of Control (6)		75,392	18,262	480,956				574,610
Change of Control Followed by Termination (7)	3,268,257	75,392	18,262	480,956	3,842,867		1,317,580	5,160,447
Timothy J. Gallagher								
Change of Control (6)		88,571	10,529	236,558				335,658
Change of Control Followed by Termination (7)	1,629,875	88,571	10,529	236,558	1,965,533		745,639	2,711,172
James W. Benz								
Change of Control (6)			8,395	195,201				203,596
Change of Control Followed by Termination (7)	1,433,835		8,395	195,201	1,637,431		596,957	2,234,388
Allison M. Fergus								
Change of Control (6)			10,930	100,010				110,940
Change of Control Followed by Termination (7)	1,135,516		10,930	100,010	1,246,456			1,246,456
Christopher F. Liucci								
Change of Control (6)				83,022				83,022
Change of Control Followed by Termination (7)	323,768			83,022	406,790			406,790

- (1) The cash severance payment is calculated by adding the 2008 accrued but unpaid annual incentive to either three times the sum of current annual salary plus target annual incentive or one times the sum of current annual salary plus target annual incentive, depending on the individual Executive Officer's continuity agreement outlined above.
- (2) The value of accelerated stock options is calculated by multiplying the number of unvested stock options by the difference between the stock price on December 31, 2008 of \$30.50 and the exercise price of the stock option.
- (3) The value of accelerated restricted stock is calculated by multiplying the number of unvested restricted stock shares by the stock price on December 31, 2008 of \$30.50.
- (4) Mr. Fuller's and Mr. Liucci's change in control payments would not exceed the safe harbor limit (three times the base amount less one dollar) and are not reduced. Ms. Fergus' after-tax change in control payment, including the 20% payment of the excise tax, would be greater than the after-tax payment of the safe harbor limit and is also not reduced. A personal tax rate of 40% is used in calculating the after-tax amount for Ms. Fergus.
- (5) Mr. Hellmann, Mr. Gallagher, and Mr. Benz's gross payments would be more than 10% above Section 280G of the IRC safe harbor limit. Therefore, the Company would additionally pay the 20% excise tax and income taxes related to the excise tax. An estimated tax gross-up rate of 60% was used in the calculation.



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- (6) Represents payments under the provisions of the DCP and award agreements under the Omnibus Plan, which provide for payments upon a change of control exclusive of our continuity agreements. In the event of a change of control under our DCP Plan, participants are entitled to acceleration of unvested account balances, subject to the limitations of Section 280G of the IRC. In addition, pursuant to the award agreements for options and restricted stock awards to Executive Officers, the unvested portions of all such awards immediately vest and become exercisable upon a change of control.
- (7) Represents payments under the continuity agreements in the event of a change of control followed by termination without cause or resignation for good reason by the executive within three years of the change of control.

**Payments upon Termination of Executive Chairman Under Employment Agreement**

Pursuant to his Employment Agreement, Mr. Fuller is entitled to specified benefits in the event of voluntary resignation for good reason or involuntary termination without cause by the Company, and in the event of disability or death. Mr. Fuller's Employment Agreement also provides that if there is a change of control followed by termination without cause or resignation for good reason during his initial or subsequent renewal employment periods, he will be entitled to payments under his continuity agreement. The payments associated with a change in control are set forth in the Payments Under Change of Control table above in the row entitled Change of Control Followed by Termination for Mr. Fuller. The payments set forth below assume a December 31, 2008 trigger event.

Name/Event	Cash Severance Payment (1)	Medicare Supplemental Premium (2)	Life Insurance Premium (3)	Acceleration of Unvested Options	Acceleration of Unvested Restricted Stock (4)	Amounts Accrued (5)	Total
Mortimer B. Fuller III							
Voluntary Resignation for Good Reason or Involuntary Termination without Cause	\$ 2,064,825	\$ 8,586	\$ 1,392,153	\$	\$ 173,484	\$ 440,222	\$ 4,079,270
Disability or Death						440,222(6)	440,222

- (1) Cash severance payment represents three times Mr. Fuller's base salary on December 31, 2008.
- (2) Mr. Fuller is entitled to medical supplemental premiums for his dependents and himself for three years. The estimated amounts payable on December 31, 2008 were calculated by multiplying the estimated monthly premium cost for a standard Medicare Supplemental Plan J policy, which provides the most comprehensive coverage of the 12 standard Medicare plans available, by 36 months. The estimated monthly premium was obtained from publicly available quotes provided by AARP. None of Mr. Fuller's dependents will be eligible for Medicare Supplemental coverage until 2012, so no amounts were included for his dependents.
- (3) Mr. Fuller is entitled to life insurance premiums, plus a tax gross up of such premiums, that extend from the year of his termination through the year he attains age 70. The estimated amounts, assuming a December 31, 2008 trigger event, were calculated by multiplying the total amount of such payments made to Mr. Fuller for life insurance and gross ups in 2008 by four years.
- (4) The value of accelerated restricted stock is calculated by multiplying the number of unvested restricted stock shares by the stock price on December 31, 2008 of \$30.50, and includes the acceleration of the unvested stock award granted on June 2, 2006 to Mr. Fuller in connection with the Australian Transactions.
- (5) As of December 31, 2008, Mr. Fuller had earned but had not yet been paid an annual cash bonus of \$440,222. Mr. Fuller is also contractually entitled to payment for the following items accrued through the date of his termination; unpaid base salary, any earned but unused vacation time, any properly incurred but unreimbursed business-related expenses, and any other amounts or benefits required to be paid or provided by law or under the terms of any applicable pension, welfare or equity compensation plan of the Company. The value of these items at December 31, 2008 was assumed to have been zero.
- (6) In the event Mr. Fuller's employment is terminated as a result of death or disability, in addition to Amounts Accrued, he is contractually entitled to benefits due under the Company's life insurance and long-term disability plans in which he participates at the time of such termination. The value of the additional items at December 31, 2008 was assumed to have been zero.

Additional information on Mr. Fuller's Employment Agreement is set forth under Narrative Supplement to the Summary Compensation Table and 2008 Grants of Plan-Based Awards Table.

**Payments in the Event of Retirement, Death, or Disability**

Mr. Hellmann and Mr. Gallagher are entitled to receive accelerated vesting of their DCP accounts in the event of death or disability, pursuant to the DCP Plan provisions. We have provided the DCP benefit to Messrs. Hellmann and Gallagher in consideration of their role in the organization and as an

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incentive for their continued service. None of the other Executive Officers were provided this benefit in 2008. Assuming a December 31, 2008 death or disability, Messrs. Hellmann and Gallagher would be entitled to the acceleration of unvested account balances, subject to the limitations of Section 280G of the IRC, of \$75,392 and \$88,571, respectively. In the event of retirement at December 31, 2008, Messrs. Hellmann and Gallagher are not entitled to acceleration of unvested DCP balances. For additional information, see Nonqualified Deferred Compensation For 2008 above.

Mr. Benz is a participant in the Rail Link Plan, which was frozen on January 31, 2002. Based upon his average compensation and years of service accrued prior to the plan being frozen, the annual amount payable upon retirement at age 62 under the plan is \$28,145. In accordance with the plan provisions, assuming retirement, death or disability at December 31, 2008, Mr. Benz is entitled to receive annual payments of \$25,331, which amounts include a 5% benefit reduction for each remaining year of service until Mr. Benz attains age 62. For additional information, see 2008 Pension Benefits above.

**Table of Contents****SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table and related footnotes set forth as of April 1, 2009 (except to the extent indicated in the footnotes to the table below) certain information concerning beneficial ownership of our stock held by (1) each stockholder known by us to own beneficially more than 5% of any class of stock, (2) each of our directors, (3) each director nominee, (4) each Executive Officer, which includes our named executive officers, and (5) all of our directors and Executive Officers as a group. We have calculated beneficial ownership in accordance with the rules of the SEC. Unless otherwise indicated below in the footnotes to the table, each stockholder named in the table has sole voting and investment power with respect to all shares shown as beneficially owned by that stockholder, and the designated address of each individual listed in the table is as follows: Genesee & Wyoming Inc., 66 Field Point Road, Greenwich, Connecticut 06830. We have omitted percentages of less than 1.0% from the table. Unless otherwise indicated, all options to purchase shares of Class A Common Stock, restricted shares and DSUs were issued pursuant to the Omnibus Plan. Class A Common Stock that can be acquired upon conversion of Class B common stock are not included in the Class A Common Stock numbers set forth in the table below.

Name and Address of Beneficial Owner	Class A Common Stock Beneficially Owned		Class B Common Stock Beneficially Owned		Percent of Vote (1)
	No. of Shares	Percent of Class	No. of Shares	Percent of Class	
<b>Directors and Nominees</b>					
Mortimer B. Fuller III (2)	255,016	*	1,637,642	64.00%	28.03%
John C. Hellmann (3)	500,736	1.48%	1,872	*	*
Robert M. Melzer (4)	99,708	*		*	*
Philip J. Ringo (5)	109,886	*		*	*
Peter O. Scannell (6)	36,740	*		*	*
Mark A. Scudder (7)	34,130	*		*	*
M. Douglas Young (8)	72,857	*		*	*
David C. Hurley (9)	14,228	*		*	*
Øivind Lorentzen (10)	17,691	*		*	*
<b>Other Named Executives</b>					
Timothy J. Gallagher (11)	132,843	*		*	*
James W. Benz (12)	188,541	*		*	*
Allison M. Fergus (13)	39,740	*		*	*
Christopher F. Liucci (14)	26,564	*		*	*
<b>Significant Shareholders</b>					
Louis S. Fuller (15)	273,800	*	674,041	26.34%	11.87%
<b>Other</b>					
T. Rowe Price Associates, Inc. (16) 100 E. Pratt Street Baltimore, Maryland 21202	2,875,818	8.58%		*	4.87%
Baron Capital Group, Inc. (17) 767 Fifth Avenue New York, New York 10153	3,073,400	9.17%		*	5.20%
Keeley Asset Management Corp. (18) 401 South LaSalle Street Chicago, Illinois 60605	2,454,445	7.33%		*	4.15%
Franklin Resources, Inc. (19) One Franklin Parkway San Mateo, California 94403	1,287,500	3.84%		*	2.18%
All Directors and Executive Officers as a Group (13 persons) (20)	1,528,680	4.43%	1,639,514	64.07%	29.81%



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- \* Represents less than 1%.
- (1) Reflects the voting power of the outstanding share holdings shown on the table as a result of the fact that Class A Common Stock is entitled to one vote per share and Class B Common Stock is entitled to ten votes per share.
  - (2) The amounts shown include: (1) 5,730 shares of Class A Common Stock owned by Mr. Fuller individually; (2) 16,738 shares of Class A Common Stock represented by restricted stock, of which 5,309 shares will vest within 60 days; (3) 1,137,642 shares of Class B Common Stock owned by Mr. Fuller individually; (4) 500,000 shares of Class B Common Stock held by a grantor annuity trust of which Mr. Fuller is the trustee and principal beneficiary; (5) 226 shares of Class A Common Stock held by Mr. Fuller's wife, as to which shares Mr. Fuller disclaims beneficial ownership; and (6) 232,322 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days.
  - (3) The amounts shown include: (1) 174,906 shares of Class A Common Stock and 1,872 shares of Class B Common Stock owned by Mr. Hellmann individually; (2) 20,186 shares of Class A Common Stock represented by restricted stock, of which 6,300 shares will vest within 60 days; and (3) 305,644 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days. The number of shares in the table includes 174,906 shares of Class A Common Stock held in a brokerage account pledged as collateral for a credit facility.
  - (4) The amount shown includes: (1) 38,932 shares of Class A Common Stock owned by Mr. Melzer individually; (2) 11,250 shares of Class A Common Stock held by a self-directed IRA; (3) 10,126 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; (4) 37,438 shares of Class A Common Stock that may be received for DSUs; and (5) 1,962 shares of Class A Common Stock represented by restricted stock, of which 654 shares will vest within 60 days.
  - (5) The amount shown includes: (1) 33,070 shares of Class A Common Stock owned by Mr. Ringo individually; (2) 18,731 shares of Class A Common Stock owned by Mr. Ringo's wife, as to which shares he disclaims beneficial ownership; (3) 5,063 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; (4) 50,074 shares of Class A Common Stock that may be received for DSUs; and (5) 2,948 shares of Class A Common Stock represented by restricted stock, of which 1,474 shares will vest within 60 days.
  - (6) The amount shown includes: (1) 8,768 shares of Class A Common Stock owned jointly by Mr. Scannell and his wife; (2) 10,125 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; (3) 14,597 shares of Class A Common Stock that may be received for DSUs; and (4) 3,250 shares of Class A Common Stock represented by restricted stock, of which 3,250 shares will vest within 60 days.
  - (7) The amount shown includes: (1) 17,343 shares of Class A Common Stock owned by Mr. Scudder individually; (2) 10,125 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; (3) 3,714 shares of Class A Common Stock that may be received for DSUs; and (4) 2,948 shares of Class A Common Stock represented by restricted stock, of which 1,474 shares will vest within 60 days.
  - (8) The amount shown includes: (1) 8,768 shares of Class A Common Stock owned by Mr. Young individually; (2) 60,839 shares of Class A Common Stock that may be received for DSUs; and (3) 3,250 shares of Class A Common Stock represented by restricted stock, of which 3,250 shares will vest within 60 days.
  - (9) The amount shown includes: (1) 4,268 shares of Class A Common Stock owned by Mr. Hurley individually; (2) 6,710 shares of Class A Common Stock that may be received for DSUs; and (3) 3,250 shares of Class A Common Stock represented by restricted stock, of which 3,250 shares will vest within 60 days.
  - (10) The amount shown includes: (1) 9,137 shares of Class A Common Stock owned by Mr. Lorentzen individually; (2) 5,606 shares of Class A Common Stock that may be received for DSUs; and (3) 2,948 shares of Class A Common Stock represented by restricted stock, of which 1,474 shares will vest within 60 days.
  - (11) The amount shown includes: (1) 7,118 shares of Class A Common Stock owned by Mr. Gallagher individually; (2) 9,937 shares of Class A Common Stock represented by restricted stock, of which 3,635 shares will vest within 60 days; and (3) 115,788 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days.
  - (12) The amount shown includes: (1) 67,107 shares of Class A Common Stock owned by Mr. Benz jointly with his wife; (2) 8,274 shares of Class A Common Stock represented by restricted stock, of which 2,996 shares will vest within 60 days; (3) 111,360 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days owned by Mr. Benz individually; and (4) 1,800 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days owned by Mr. Benz's wife.
  - (13) The amount shown includes: (1) 666 shares of Class A Common Stock owned by Ms. Fergus individually; (2) 34,533 shares of Class A Common Stock that may be purchased by Ms. Fergus pursuant to options exercisable within 60 days; and (3) 4,541 shares of Class A Common Stock represented by restricted stock, of which 1,320 shares will vest within 60 days.
  - (14) The amount shown includes: (1) 1,447 shares of Class A Common Stock owned by Mr. Liucci individually; (2) 22,141 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; and (3) 2,976 shares of Class A Common Stock represented by restricted stock, of which 954 shares will vest within 60 days.



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- (15) The amounts shown include: (1) 674,041 shares of Class B Common Stock owned by Mr. Louis Fuller individually, (2) 1,450 shares of Class A Common Stock owned by Mr. Louis Fuller individually; and (3) 272,350 shares of Class A Common Stock owned by Mr. Louis Fuller's wife, as to which shares he disclaims beneficial ownership.
- (16) The amount and percentage shown, and the information contained in this footnote, is derived from a Schedule 13G filed by T. Rowe Price Associates, Inc. (*Price Associates*) on February 12, 2009. Price Associates has sole voting power to vote 863,200 of such shares and has sole power to dispose of 2,875,818 of such shares. According to its joint Schedule 13G, T. Rowe Price Small-Cap Value Fund, Inc. (*Price SC Value Fund*) has sole voting power to vote 1,940,000 of such shares. Because Price Associates does not serve as custodian of the assets of any of its clients, only the client or the client's custodian or trustee bank has the right to receive dividends paid with respect to, and proceeds from the sale of, the shares. The ultimate power to direct the receipt of dividends paid with respect to, and the proceeds from the sale of, the shares, is vested in the individual and institutional clients, which Price Associates serves as investment adviser. Any and all discretionary authority which has been delegated to Price Associates may be revoked in whole or in part at any time. Not more than five percent of the class is owned by any one client subject to the investment advice of Price Associates. With respect to securities owned by any one of the T. Rowe Price Funds, only State Street Bank and Trust Company, as custodian for each of such funds, has the right to receive dividends paid with respect to, and proceeds from the sale of, such securities. No other person is known to have such right, except that the stockholders of each such Fund participate proportionately in any dividends and distributions so paid.
- (17) The amount and percentage shown, and the information contained in this footnote, is derived from a Schedule 13G/A filed by Baron Capital Group, Inc. (*BCG*) on February 12, 2009. BCG has shared voting power with respect to 2,603,150 shares and shared dispositive power with respect to 3,073,400 shares. According to their joint Schedule 13G, BAMCO, Inc. has shared voting power with respect to 2,331,250 shares and shared dispositive power with respect to 2,790,250 shares; Baron Capital Management, Inc. (*BCM*) has shared voting power with respect to 271,900 shares and shared dispositive power with respect to 283,150 shares; Baron Growth Fund has shared voting and shared dispositive power with respect to 2,000,000 shares; and Ronald Baron has shared voting power with respect to 2,603,150 shares and shared dispositive power with respect to 3,073,400 shares. The advisory clients of BAMCO, Inc. and BCM have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the shares in their accounts. No such person is known to have an interest relating to more than five percent of the class. BCG and Ronald Baron disclaim beneficial ownership of shares held by their controlled entities (or the investment advisory clients thereof) to the extent such shares are held by persons other than BCG and Ronald Baron. BAMCO and BCM disclaim beneficial ownership of shares held by their investment advisory clients to the extent such shares are held by persons other than BAMCO, BCM and their affiliates.
- (18) The amount and percentage shown, and the information contained in this footnote, is derived from a Schedule 13G filed by Keeley Asset Management Corp. (*Keeley*) on February 13, 2009. Keeley has sole voting power with respect to 2,362,945 of such shares and sole power to dispose of 2,454,445 of such shares. According to their joint Schedule 13G, Keeley Small Cap Value Fund shares beneficial ownership of 1,850,000 shares held by Keeley.
- (19) The amount and percentage shown, and the information contained in this footnote, is derived from a Schedule 13G filed by Franklin Resources, Inc. (*Franklin*) on February 6, 2009. Franklin Advisory Services, LLC (*Franklin Advisory*) has sole voting power of 1,248,700 of such shares and sole power to dispose of 1,287,500 of such shares. The advisory clients of Franklin have the right to receive or the power to direct the receipt of dividends from, as well as the proceeds from the sale of, the shares in their accounts. The voting and investment powers held by Franklin Mutual Advisers, LLC (*FMA*), an indirect wholly-owned investment management subsidiary, are exercised independently from Franklin and from all other investment management subsidiaries. Charles B. Johnson and Rupert H. Johnson, Jr. (*the Principal Shareholders*) each own in excess of 10% of the outstanding common stock of Franklin Advisory. The Principal Shareholders, Franklin and Franklin Advisory share beneficial ownership of 1,287,500 shares.
- (20) See footnotes 2 through 14 to this table. The amounts shown include: (1) 407,467 shares of Class A Common Stock owned individually, jointly with a spouse or in a self directed IRA; (2) 859,027 shares of Class A Common Stock that may be purchased pursuant to options exercisable within 60 days; (3) 1,639,514 shares of Class B Common Stock owned individually, including 500,000 shares of Class B Common Stock which are held by a grantor annuity trust; (4) 83,208 shares of Class A Common Stock represented by restricted stock, of which 35,340 shares will vest within 60 days; and (5) 178,978 shares of Class A Common Stock that may be received for DSUs.

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**REPORT OF THE AUDIT COMMITTEE\***

The duties and responsibilities of the Audit Committee are set forth in our Audit Committee Charter which can be found on our website, [www.gwrr.com](http://www.gwrr.com), under the Governance link. The Audit Committee has:

selected PwC as our independent registered public accounting firm to audit our consolidated financial statements as of and for the year ended December 31, 2008 and the effectiveness of our internal control over financial reporting as of December 31, 2008;

reviewed and discussed our audited financial statements for 2008 with management and with PwC, our independent registered public accounting firm, and held, as appropriate, executive sessions with PwC and those responsible for our internal audit function, in each case without the presence of management;

discussed with PwC, our independent registered public accounting firm, the matters required to be discussed by the Statement on Auditing Standards (SAS) No. 61, as amended, as adopted by the Public Company Accounting Oversight Board in Rule 3200T, including the quality of the Company's accounting principles, the reasonableness of management's significant judgments and the clarity of disclosures in the financial statements; and

received and reviewed the written disclosures and the letter from PwC required by applicable requirements of the Public Company Accounting Oversight Board regarding PwC's communications with the Audit Committee concerning independence, and has discussed with PwC its independence.

In performing all of these functions, the Audit Committee acts in an oversight capacity. The Audit Committee reviews the Company's quarterly and annual reports on Form 10-Q and Form 10-K prior to filing with the SEC. In its oversight role, the Audit Committee relies on the work and assurances of:

the Company's management, which has the primary responsibility for establishing and maintaining adequate internal control over financial reporting and for preparing the financial statements, and other reports; and

PwC, which is engaged to audit and report on the consolidated financial statements of the Company and the effectiveness of the Company's internal control over financial reporting.

In reliance on these reviews and discussions, and the report of the independent registered public accounting firm, the Audit Committee recommended to the Board, and the Board approved, that the audited financial statements be included in the Company's Form 10-K for the year ended December 31, 2008 for filing with the SEC.

***Audit Committee:***

Øivind Lorentzen III, *Chairman*

Robert M. Melzer

Philip J. Ringo

## Edgar Filing: GENESEE & WYOMING INC - Form DEF 14A

\*The information in this report is not soliciting material, is not deemed filed with the SEC and is not to be incorporated by reference in any of our filings under the Securities Act of 1933, as amended, or the Exchange Act whether made before or after the date hereof and irrespective of any general incorporation language in any such filings.

**Table of Contents****PROPOSAL TWO:****APPROVAL OF THE SELECTION OF INDEPENDENT AUDITORS**

PwC served as our independent registered public accounting firm for our fiscal year ended December 31, 2008. In addition to the audit of the 2008 financial statements, the Audit Committee engaged PwC to perform certain other services for which it was paid fees.

PwC also served as our independent registered public accounting since 2002. Our Audit Committee has selected PwC as our independent registered public accounting firm for fiscal year 2009. This selection will be presented to our stockholders for their ratification at the annual meeting.

We are asking our stockholders to ratify the selection of PwC as our independent registered public accounting firm for fiscal year 2009. Although ratification is not required by our by-laws or otherwise, the Board is submitting the selection of PwC to our stockholders for ratification because we value our stockholders' views on our independent registered public accounting firm and as a matter of good corporate practice. In the event that our stockholders fail to ratify the selection, it will be considered as a direction to the Audit Committee to consider the selection of a different firm. Even if the selection is ratified, the Audit Committee in its discretion may select a different independent registered public accounting firm, at any time during the year if it determines that such a change would be in the best interests of the Company and our stockholders.

One or more representatives of PwC is planning to be present at the annual meeting and will be available to respond to appropriate questions. In addition, the representatives will have an opportunity to make a statement if they so desire.

**The Board of Directors unanimously recommends that stockholders vote FOR the ratification of PwC as the Company's independent registered public accounting firm for its fiscal year 2009.**

**Principal Accountant Fees and Services**

Aggregate fees for professional services rendered to us by PwC for the years ended December 31, 2007 and 2008 were:

	<b>2007</b>	<b>2008</b>
Audit Fees	\$ 1,514,840	\$ 1,638,500
Audit-Related Fees	70,000	133,000
Tax Fees		85,600
All Other Fees	12,400	5,000
<b>Total</b>	<b>\$ 1,597,240</b>	<b>\$ 1,862,100</b>

*Audit fees* for the years ended December 31, 2007 and 2008 were for professional services rendered by PwC for the audits of the consolidated financial statements of the Company, including the audit of internal control over financial reporting statutory audits and assistance with review of documents filed with the SEC.

*Audit Related fees* for the years ended December 31, 2007 and 2008 were for assurance and related services by PwC related to due diligence for mergers and acquisitions, accounting consultations in connection with acquisitions and consultations concerning financial accounting and reporting standards.

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*Tax* fees for the years ended December 31, 2007 and 2008 were for services by PwC related to tax compliance, tax planning and tax advice.

*All other* fees for the year ended December 31, 2007 were for access to a web-based technical accounting research tool and for statutory financial statement reporting software. All other fees for the year ended December 31, 2008 were for access to a web-based technical accounting research tool.

Our Audit Committee has not adopted pre-approval policies and procedures for audit and permitted non-audit services. The engagement of PwC for non-audit accounting and tax services is limited to circumstances where these services are considered integral to the audit services that PwC provides or where there is another compelling rationale for using PwC. All audit, audit-related and permitted non-audit services for which PwC was engaged were pre-approved by the Audit Committee in compliance with applicable SEC requirements.

**STOCKHOLDER PROPOSALS FOR 2010 ANNUAL MEETING**

Under the SEC's rules and regulations, in order for any stockholder proposal to be included in our proxy statement to be issued in connection with our 2010 annual meeting, that proposal must be received by our Secretary no later than December 18, 2009. If that proposal is in compliance with all of the requirements of Rule 14a-8 under the Exchange Act, it will be included in the proxy statement and set forth on the proxy card issued for that annual meeting. Pursuant to our by-laws, stockholders may wish to submit proposals at the 2010 annual meeting rather than include such proposals in our proxy materials, but in order for such proposals to be deemed timely, such proposals must be in writing and be received by our Secretary by no earlier than February 16, 2010, and no later than March 18, 2010.

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**OTHER MATTERS**

Our Board does not know of any other matters that are to be presented for action at the annual meeting. Should any other matter come before the annual meeting, however, the persons named in the enclosed proxy will have discretionary authority to vote all proxies with respect to such matter in accordance with their judgment.

**NOTICE OF INTERNET AVAILABILITY OF PROXY MATERIALS**

*Important Notice Regarding the Availability of Proxy Materials for the Stockholders Meeting to be held on May 27, 2009.*

**The Proxy Statement and Annual Report to Stockholders are available at [www.gwrr.com/proxy](http://www.gwrr.com/proxy)**

**Directions to the Hyatt Regency Greenwich are set forth below:**

**From Points North or South via I-95:**

Take the Old Greenwich Exit #5. Make a right at the end of the ramp onto East Putnam Avenue/Route 1. Follow the avenue to the third traffic light and make a right into the Hotel entrance.

**From New York City:**

Follow F.D.R. Drive North to the Triborough Bridge. Go over the Triborough Bridge and follow the signs to the Bruckner Expressway/ New England. Follow the signs to the I-95 North/New England. Take the Old Greenwich Exit #5. Make a right at the end of the ramp onto East Putnam Avenue/Route 1. Follow the avenue to the third traffic light and make a right into the Hotel entrance.

**From New Jersey via Garden State Parkway:**

Follow the Garden State Parkway North to I-87 South toward Connecticut. Go over the Tappan Zee Bridge. Take the Exit for 287 East. Follow signs to I-95 North into Connecticut. Take the Old Greenwich Exit #5. Make a right at the end of the ramp onto East Putnam Avenue/Route 1. Follow the avenue to the third traffic light and make a right into the Hotel Entrance.

**From the Merrit Parkway Heading North / South:**

Follow Merrit Parkway to the North Street Exit #31. Make a left (heading North) or make a right (heading South) onto North Street toward the Greenwich Business District. Follow North Street to the end, which is about four miles, and then take a left onto Maple Avenue. Take the next left onto East Putnam Avenue. Follow East Putnam Avenue for approximately three miles. After passing the I-95 thruway entrance signs, the Hyatt will be at the third traffic light. Turn right into the Hotel entrance.

BY ORDER OF THE BOARD OF DIRECTORS

Allison M. Fergus

*Secretary*

Dated: April 17, 2009



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As Amended on April 15, 2009

**ANNEX I**

**GENESEE & WYOMING INC.**

**CORPORATE GOVERNANCE PRINCIPLES**

The Board of Directors ( *Board* ) of Genesee & Wyoming Inc. ( *Company* ) is governed by the following general principles:

(a) The Board's paramount duty is to oversee the Chief Executive Officer ( *CEO* ) and other senior management in the competent and ethical management of the Company.

(b) Open communication between the Board and management is crucial to the Company's long-term success. Management is responsible for creating, developing and implementing the strategy of the Company. The Board is responsible for reviewing the strategy and guiding its implementation in the context of the overall scope of the business and the interests of its stockholders. Management is responsible for operating the Company in an effective and ethical manner in order to produce long-term value for stockholders. Senior management and the Board are expected to know how the Company earns its income and what risks the Company is undertaking in the course of carrying out its business. Neither management's nor the Board's personal interests should be placed ahead of, or in conflict with, the interests of the Company.

(c) Management is responsible, under the oversight of the Board and its Audit Committee, for producing financial statements that fairly present the financial condition and results of operations of the Company, and for making the timely, understandable and complete disclosures that stockholders and prospective investors need to permit them to assess the financial and business soundness and risks of the Company.

(d) The Company is responsible for dealing (i) with its employees in a fair and equitable manner; (ii) with the communities in which it operates with good citizenship; and (iii) with government in accordance with, and with a commitment to, all applicable laws, rules and regulations.

Based on the preceding principles, the Board has adopted the following corporate governance policies:

**1. Responsibilities and Duties of the Board.**

In addition to its general responsibility to oversee management, the Board is also responsible for performing a number of specific functions. It is the Board's duty to:

1.1. Appoint the Executive Chairman of the Board (if any) and the CEO, and oversee CEO succession planning.

1.2. Appoint the officers of the Company.

1.3. Understand and approve the Company's long-term, key strategies.

1.4. Understand the Company's business, industry and risks that are central to the Company's success.

1.5. Review and monitor fundamental financial and business strategies and review, monitor and approve material corporate actions.

1.6. Approve operating and capital budgets at the commencement of each financial year and monitor progress on a quarterly basis against budget by financial key performance indicators.

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1.7. Monitor and oversee the Company's financial position, the quality and integrity of the Company's financial statements and reports, the qualification and independence of the Company's independent auditor and the performance of the internal audit function.

1.8. Evaluate the performance of, and set the compensation for, the Executive Chairman (if any), the CEO and other senior management, and oversee the Company's executive compensation programs.

1.9. Develop and monitor the Company's Corporate Governance and ensure that the Company's policies and compliance systems in place are consistent with the objective that the Company, its officers and directors act legally, ethically and responsibly.

## **2. Board Composition, Director Responsibilities and Compensation.**

2.1. The Company's By-laws allow for not less than three nor more than fifteen directors. Changes to the size of the Board shall be recommended by the Governance Committee and approved by the full Board, with consideration given to the number of management directors and non-management directors. The Governance Committee will also seek to establish the Board at a size that is large enough to represent broad interests but small enough to maintain close working relationships and collegiality.

### **2.2. Board Selection**

2.2.1. The Board is responsible for nominating directors. In nominating directors, the Board, with the assistance of the Governance Committee, will take into account: (a) minimum individual qualifications, including strength of character, mature judgment, industry knowledge or experience and an ability to work collegially with the other members of the Board, and (b) a variety of other factors it considers appropriate, which may include the following: leadership skills; general business acumen and experience; broad knowledge of the rail freight business or of other modes of transportation; knowledge of strategy, finance, international business, government affairs related to transportation; age; number of other board seats; existing commitments to other businesses and willingness to commit the necessary time; legal considerations such as antitrust issues; and corporate governance background—all to ensure an active Board whose members work well together and possess the collective knowledge and expertise required by the Board. Selection shall be made in the context of an assessment of the perceived needs of the Board at the point in time the selection is being made. At least a majority of the directors shall be independent directors, as determined in accordance with section 3 below.

2.2.2. The Governance Committee considers and establishes procedures regarding recommendations for nomination to the Board, including nominations submitted by stockholders. Recommendations of stockholders should be sent to the Company, to the attention of the Corporate Secretary. Any recommendations submitted to the Corporate Secretary should be in writing and should include whatever supporting material the stockholder considers appropriate in support of that recommendation, but must include the information that would be required under the rules of the SEC in a proxy statement soliciting proxies for the election of such candidate and a signed consent of the candidate to serve as a director of the Company, if elected. The Governance Committee will evaluate all potential candidates in the same manner, regardless of the source of the recommendation. Based on the information provided to the Governance Committee, it will make an initial determination whether to conduct a full evaluation of a candidate. As part of the full evaluation process, the Governance Committee may conduct interviews, obtain additional background information and conduct reference

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checks of the candidate. The Governance Committee may also ask the candidate to meet with management and other members of the Board.

2.3. The following are the criteria for remaining a director:

2.3.1. All non-management directors are expected voluntarily to review and assess their own membership of the Board from time to time and, particularly, before standing for re-election, taking into account length of service, age, qualifications and expertise relevant to the Company's then current policy and business. In addition, the Governance Committee will adopt a formal process for evaluating on an annual basis the effectiveness of the Board and each of its committees and determining opportunities for their improvement. The sole purpose of this evaluation is to increase the effectiveness of the Board.

2.3.2. Non-management directors who change the responsibility they held when they were elected to the Board should submit a letter of resignation to the Board. Individual non-management directors should submit a letter of resignation to retire from the Board at the end of the term following their 70th birthday. In both cases, such letter may be accepted or rejected by the Governance Committee.

2.3.3. Individual management directors should submit a letter of resignation to retire from the Board on the relinquishment of their management position with the Company. Such letter may be accepted or rejected by the Governance Committee.

2.3.4. Because of the importance of knowledge of the Company and of continuity, the Board does not believe that in every instance the directors who retire or change from the position they held when they came on the Board should necessarily leave the Board. There should, however, be an opportunity for the Board to review the continued appropriateness of Board membership under these circumstances.

2.3.5. The Board has not adopted term limits. While term limits ensure fresh ideas and viewpoints, they result in the loss of the contribution of directors who have been able to develop, over a period of time, insight into the Company, the continuity of its strategy and its operations, culture and management and a working relationship with other directors.

2.3.6. The Board will review each director's continuation on the Board every three years which will also allow each director to confirm his or her desire to continue as a member.

2.4. The Board has developed a number of specific expectations of directors to promote the discharge by the directors of their responsibilities and to promote the efficient conduct of the Board's business. It is understood that the non-management directors are not full-time employees of the Company.

2.4.1. All directors should make every effort to attend meetings of the Board and the committees of which they are members. Attendance by telephone or video conference may be used to facilitate a director's attendance.

2.4.2. The Board believes that it is important for stockholders to have the opportunity to meet and talk to the independent members of the Board. Therefore, the Board generally schedules a board meeting in conjunction with the Company's annual stockholders' meeting and expects directors, absent valid reasons, to attend the stockholders' meeting. The Company will annually disclose how many directors attended the previous year's stockholders' meeting.

2.4.3. Each director should be sufficiently familiar with the business of the Company, including its financial statements and capital structure, and the risks and the competition it faces, to ensure active

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and effective participation in the deliberations of the Board and of each committee on which he or she serves. Upon request, management shall make appropriate personnel available to answer any questions a director may have about any aspect of the Company's business. Directors should also review the materials provided by management and advisors in advance of the meetings of the Board and its Committees and should arrive prepared to discuss the issues presented.

2.4.4. In their roles as directors, all directors owe a duty of loyalty to the Company. This duty of loyalty mandates that the best interests of the Company take precedence over any interest possessed by a director. The Company has adopted a Code of Ethics and Conduct. Certain provisions of the Code are applicable to activities of directors, and directors are expected to be familiar with the Code's provisions and should consult with the Company's General Counsel in the event any issue arises.

2.4.5. The Company values the experience directors bring from other boards on which they serve and other activities in which they participate, but recognizes that those boards and activities may also present demands on a director's time and availability and may present conflicts or legal issues, including independence issues. Directors should advise the chairperson of the Governance Committee and the CEO before accepting membership on other boards of directors or any audit committee or other significant committee assignment of any other board of directors, or establishing other significant relationships with businesses, institutions, governmental units or regulatory entities, particularly those that may result in significant time commitments, a change in the director's relationship to the Company or a conflict of interest.

2.4.6. The proceedings and deliberations of the Board and its committees shall be confidential. Each director shall maintain the confidentiality of information received in connection with his or her service as a director.

2.5. The Board's compensation will be determined annually following the annual meeting of stockholders. The compensation of non-management directors should fairly reward them for their efforts on behalf of the Company and should be structured to align their interests with the long-term interests of the Company's stockholders. Non-management directors have the right to elect to receive their cash compensation in Company common stock and the Board strongly encourages all of its non-management directors to make this election. The Board may seek outside expertise to determine the appropriateness and competitiveness of its compensation.

### **3. Categorical Standards for Director Independence.**

3.1. The Board determines each director's independence on an annual basis based on applicable regulatory and stock exchange requirements and these standards. When assessing the materiality of a director's relationship with the Company, the Board shall consider the issue not merely from the standpoint of the director, but also from that of persons or organizations with which the director has an affiliation. Material relationships can include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships, among others. The Board's determination shall be disclosed in its proxy statement for each annual meeting of stockholders. The Board will also evaluate the independence of the members of the Audit Committee and Compensation Committee in accordance with applicable rules.

3.2. For purposes of these standards:

3.2.1. *Company* means Genesee & Wyoming Inc. and its consolidated subsidiaries.

3.2.2. *Executive Officer* means an officer within the meaning of Rule 16a-1(f) under the Securities Exchange Act of 1934.

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3.2.3. *Immediate Family* means a director's spouse, parents, stepparents, children, stepchildren, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone (other than domestic employees) who shares the director's home, but excluding any person who is no longer an immediate family member as a result of legal separation or divorce, or death or incapacitation.

3.3. An *independent* director shall be defined to mean a director who has none of the relationships with the Company set forth in section 3.4.1 below, and otherwise has no direct or indirect material relationship with the Company (either directly or as a partner, stockholder or officer of a company that has a relationship with the Company) that would interfere with the exercise of independent judgment by such director; provided, however, that the Board believes all directors should hold meaningful equity ownership positions in the Company.

3.4. The Board, in its business judgment, will determine, based on all relevant facts and circumstances and in a manner consistent with the standards set forth below, whether a director has a relationship with the Company or to its management that would interfere with such director's exercise of his or her independent judgment. The following standards shall be followed by the Board in determining director independence:

3.4.1. Under any circumstances, a director is not independent if:

3.4.1.1. the director is, or has been within the preceding three years, employed by the Company;

3.4.1.2. an Immediate Family member of that director is, or has been employed as an Executive Officer of the Company within the preceding three years;

3.4.1.3. the director, or an Immediate Family member of that director, received within the preceding three years more than \$100,000 in any twelve-month period in direct compensation from the Company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service);

3.4.1.4. the director or an Immediate Family member of that director is a current partner of a firm that is the Company's internal or external auditor; the director is a current employee of such a firm; the director has an Immediate Family member who is a current employee of such a firm and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice; or the director or an Immediate Family member of that director was within the last three years (but is no longer) a partner or employee of such a firm and personally worked on the Company's audit within that time;

3.4.1.5. the director or an Immediate Family member of that director is, or has been within the preceding three years, employed as an Executive Officer of another company where any of the Company's present Executive Officers at the same time serves or served on such other company's compensation committee; or

3.4.1.6. the director is a current employee, or an Immediate Family member of that director is a current Executive Officer, of a company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the preceding three fiscal years, exceeds the greater of \$1,000,000 or two percent (2%) of the consolidated gross revenues of the other company.

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3.4.2. The following commercial or charitable relationships will **not** be considered to be material relationships that would impair a director's independence:

3.4.2.1. if the director or an Immediate Family member of that director is an Executive Officer or director of another company in which the Company owns an equity interest, and the amount of the equity interest held by the Company is less than ten percent (10%) of the outstanding voting securities of the company at which the director or an Immediate Family member of that director serves as an Executive Officer or director;

3.4.2.2. if the director or an Immediate Family member of that director serves as an Executive Officer, director or trustee of a charitable organization, and the Company's annual charitable contributions to that organization (excluding contributions by the Company under any established matching gift program) are less than the lesser of \$1,000,000 or two percent (2%) of that organization's consolidated gross revenues in its most recent fiscal year; and

3.4.2.3. if the director is a current employee, or an Immediate Family member of that director is a current Executive Officer, of another company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the preceding three fiscal years, did not exceed the greater of \$1,000,000 or two percent (2%) of the consolidated gross revenues of the other company.

3.4.3. For relationships not covered by the standards contained in section 3.4.2 above, the determination of whether or not the relationship is material, and therefore whether the director is independent, shall be made by the directors who satisfy the independence standards set forth in sections 3.4.1 and 3.4.2 above.

3.5. The Board may determine that a director who has a relationship that exceeds the limits described in section 3.4.2 above is nonetheless independent, so long as such relationship is not otherwise described in section 3.4.1 above. The basis for any such determination will be explained in the Company's next proxy statement.

## **4. Committees of the Board.**

4.1. The Board has established the following committees to assist it in discharging its responsibilities: (i) Audit; (ii) Compensation; and (iii) Governance. The current charters of the Audit, Compensation and Governance Committees are published on the Company's website, and will be mailed to stockholders upon written request. The committee chairs report the highlights of their meetings to the full Board following each meeting of the respective committees. The committees occasionally hold meetings in conjunction with the full Board. The Audit, Compensation and Governance Committees are comprised solely of independent directors in accordance with these standards and all applicable regulatory and stock exchange requirements.

## **5. The Relationship of the Board to Management.**

5.1. To enhance open communication between the Board and management, the Board's policy is to periodically invite senior management of the Company to attend Board meetings. The Board does not expect all senior managers to attend on a regular basis.

5.2. In performing its functions, the Board shall be entitled to rely on the advice, reports and opinions of management, counsel, accountants, auditors and other expert advisors. Except as otherwise provided in a charter of a Committee, the Board shall have the authority to select, retain, terminate and

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approve the fees and other retention terms of its outside advisors. These advisors may also be invited to attend Board meetings.

5.3. The Board will meet in executive session regularly. The non-management directors will also have at least four regularly scheduled meetings a year without management present.

5.4. Board members will have complete access to the Company's management, and Board members will exercise judgment to ensure that contact with management is not distracting to the business operation of the Company.

### **6. Management and Succession.**

6.1. The Board will review annually with the CEO management succession planning and development. There should also be available, on a continuing basis, the CEO's recommendation as to his successor should he be unexpectedly disabled.

### **7. Director Orientation and Continuing Education.**

7.1. The Company will provide new directors with materials and briefings to permit them to become familiar with the Company's business, industry and corporate governance practices. The Company will also provide, as appropriate, additional educational opportunities to directors on an ongoing basis to better enable them to perform their duties.

7.2. Directors are expected to attend training and/or education programs to the extent they would help them better understand the operations of the Company, the industry in which the Company operates and corporate governance best practices. The Company will reimburse its board members for the costs associated with such training and education.

### **8. Communicating with the Board.**

8.1. Stockholders or other interested parties who would like to communicate directly with the Board, non-management directors or an individual director may do so by writing to the Corporate Secretary, Genesee & Wyoming Inc., 66 Field Point Road, Greenwich, Connecticut 06830, attention: the Board, non-management directors or the name of the individual director, as applicable. Communications are distributed to the Board, or to any individual director or directors as appropriate, depending on the facts and circumstances outlined in the communication. In that regard, the Board has requested that certain items that are unrelated to its duties and responsibilities should be excluded, such as:

spam;

junk mail and mass mailings;

resumes and other forms of job inquiries;

surveys; and

business solicitations or advertisements.

In addition, material that is unduly hostile, threatening, illegal or similarly unsuitable will be excluded, with the provision that any communication that is filtered out must be made available to any non-management director upon request. Any concerns relating to accounting, internal controls or auditing matters will be brought to the attention of the Audit Committee.

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c/o National City Bank

Shareholder Services Operations

Locator 5352

P. O. Box 94509

Cleveland, OH 44101-4509

**VOTE BY TELEPHONE**

Have your proxy card available when you call **Toll-Free 1-888-693-8683** using a touch-tone phone and follow the simple instructions to record your vote.

**VOTE BY INTERNET**

Have your proxy card available when you access the Web site **www.cesvote.com** and follow the simple instructions to record your vote.

**VOTE BY MAIL**

Please mark, sign and date your proxy card and return it in the **postage-paid envelope** provided or return it to: National City Bank, P.O. Box 535300, Pittsburgh, PA 15253.

**You can view the Annual Report and Proxy Statement on the Internet at: [www.gwrr.com/proxy](http://www.gwrr.com/proxy)**

**Vote by Telephone**

Call Toll-Free using a

touch-tone telephone:

**1-888-693-8683**

**Vote by Internet**

Access the Web site and

cast your vote:

**www.cesvote.com**

**Vote by Mail**

Return your proxy card

in the postage-paid

envelope provided

**Vote 24 hours a day, 7 days a week!**

**Your telephone or Internet vote must be received by 11:59 PM Eastern Time**

**on May 26, 2009 to be counted in the final tabulation.**



If you vote by telephone or over the Internet, do not mail your proxy card.

è

Proxy card must be signed and dated below.

ð Please fold and detach card at perforation before mailing. ð

**GENESEE & WYOMING INC.**  
**Annual Meeting of Stockholders to be held on Wednesday, May 27, 2009**

**This Proxy is solicited on behalf of the Board of Directors for the 2009 Annual Meeting of Stockholders**

The undersigned hereby appoints MARK W. HASTINGS and TIMOTHY J. GALLAGHER, and each of them, proxies for the undersigned, with full power of substitution, to represent and vote as designated on the reverse side, all shares of the Class A Common Stock and all shares of the Class B Common Stock (if any), of GENESEE & WYOMING INC. (the Company) held of record by the undersigned on April 1, 2009 at the Annual Meeting of Stockholders of the Company to be held at the Hyatt Regency Greenwich, 1800 East Putnam Avenue, Old Greenwich, CT 06870, on Wednesday, May 27, 2009 at 10:00 a.m., local time, or at any adjournment or postponement thereof.

The undersigned acknowledges receipt with this Proxy of a copy of the Notice of Annual Meeting of Stockholders and Proxy Statement describing more fully the proposals set forth herein.

Dated: \_\_\_\_\_, 2009

Signature of Stockholder

Signature of Stockholder (if held jointly)  
Please date and sign name exactly as it appears hereon.  
Executors, administrators, trustees, etc. should so indicate when signing. If the stockholder is a corporation, the full corporate name should be inserted and the proxy signed by an officer of the corporation, indicating his/her title.

PLEASE MARK, SIGN, DATE AND RETURN THIS PROXY CARD PROMPTLY IN THE ENCLOSED ENVELOPE.

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**YOUR VOTE IS IMPORTANT**

If you do not vote by telephone or Internet, please mark, sign and date this proxy card and return it promptly in the enclosed postage-paid envelope, or otherwise to National City Bank, P.O. Box 535300, Pittsburgh, PA 15253, so that your shares may be represented at the Annual Meeting. If you vote by telephone or Internet, do not mail this proxy card.

ê **Please fold and detach card at perforation before mailing.** ê

**GENESEE & WYOMING INC.**

**PROXY**

**This Proxy will be voted as specified by the undersigned. This proxy revokes any prior proxy given by the undersigned. Unless authority to vote for one or more of the nominees is specifically withheld according to the instructions, a signed Proxy will be voted FOR the election of the two nominees for directors, and unless otherwise specified, FOR the other proposal listed below and described in the accompanying Proxy Statement. The proxies, in their discretion, are authorized to vote upon such other business as may properly come before the Annual Meeting.**

**The Board of Directors recommends a vote FOR the election of the director nominees and FOR Proposal 2.**

1. Election of Directors

Nominees: (1) David C. Hurley  
(2) Peter O. Scannell

<b>FOR</b>	<b>WITHHOLD</b>	<b>FOR ALL</b>
<b>ALL</b>	<b>ALL</b>	<b>EXCEPT</b>
<b>q</b>	<b>q</b>	<b>q</b>

**INSTRUCTIONS: To withhold authority to vote for any individual nominee(s), mark FOR ALL EXCEPT and write the name(s) of the nominee(s) on the line below:**

2. Proposal to ratify the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2009

<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
<b>q</b>	<b>q</b>	<b>q</b>

3. In their discretion, the proxies are authorized to vote upon such other business as may properly come before the Annual Meeting.  
(CONTINUED, AND TO BE DATED AND SIGNED, ON THE OTHER SIDE)