

LABOR AGREEMENT  
BETWEEN MERIDIAN AND BIGBEE  
RAILROAD, L.L.C  
AND IT'S  
EMPLOYEES REPRESENTED BY THE  
BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYES DIVISION  
OF THE  
INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS

## **ARTICLE 1 SCOPE**

These rules govern the hours of service, rates of pay, and working conditions of employees in the Maintenance of Way Department performing work generally recognized as Maintenance of Way work such as Inspection, Construction, Repair and Maintenance of Tracks, Rails, Ties, other track Materials, Crossings, Roadbeds, Brush cutting, and other employees who may subsequently be employed to do such work, represented by the Brotherhood of Maintenance of Way Employees Division of the IBT.

(a) This Agreement does not apply to supervisory forces above the rank of Track Inspector or to employees engaged in work of a character properly belonging to classes of employees covered by any other collective bargaining agreements.

*NOTE: Any new positions created after the effective date of this Agreement to perform the work covered hereby shall be covered by the provisions of this Agreement.*

(b) When a position covered by this Agreement is abolished, the work assigned to such position which remains to be performed will be reassigned to other positions covered by this Agreement.

(c) Work covered by this Agreement shall not be removed except by mutual agreement between the parties signatory hereto.

(d) Other than cases of emergency or to expedite completion of work when a covered employee is not available, an officer or an employee not covered by this Agreement shall not be permitted to perform any work covered by this Agreement.

(e) The use of such words as "he", "his", and "him", as they appear in this Agreement are not intended to restrict the application of the Agreement or a particular rule to a particular sex but are used solely for the purpose of grammatical convenience and clarity.

## **ARTICLE 2 CONTRACT WORK**

It is the intent of the Agreement for the MERIDIAN AND BIGBEE to utilize maintenance of way employees under rules of the Agreement to perform the work included within the scope of the Agreement; however, it is recognized that in certain specific instances the contracting out of such work may be necessary. Therefore, the Carrier may contract work recognized as Maintenance of Way work without notice to the General Chairman provided that no fewer than eleven (11) employees are in full time active service. In the

event there is not a minimum of eleven (11) employees in active service, one or more of the following conditions must exist:

1. Special skills necessary to perform the work are not possessed by its Maintenance of Way Employees.
2. Special equipment necessary to perform the work is not owned by the Carrier or is not available to the Carrier for its use and operation thereof by its Maintenance of Way Employees.
3. Time requirements exist which present undertakings not contemplated by the Agreement that are beyond the capacity of its Maintenance of Way Employees, such as but not limited to derailments of the magnitude not normally repaired by MERIDIAN & BIGBEE employees.

In the event the MERIDIAN AND BIGBEE plans to contract out work because of one or more of the criteria described above, it shall notify the General Chairman in writing as far in advance of the date of the contracting transaction as is practicable and in any event, not less than fifteen (15) days prior thereto. Such notification shall clearly set forth a description of the work to be performed and the basis on which the MERIDIAN AND BIGBEE has determined it is necessary to contract out such work according to the criteria set forth above.

If the General Chairman, or his representative, requests a meeting to discuss matters relating to the said contracting transaction, the designated representative of the MERIDIAN AND BIGBEE shall promptly meet with him for that purpose and the parties shall make a good faith effort to reach an agreement setting forth the manner in which the work will be performed. It is understood that when condition 3 is cited as criteria for contracting work, MERIDIAN AND BIGBEE, to the extent possible under the particular circumstances, shall engage its Maintenance of Way Employees to perform all maintenance and construction work in the Track Sub-department. If no agreement is reached, MERIDIAN AND BIGBEE may nevertheless proceed with said contracting and the Organization may file and progress claims in connection therewith.

Nothing herein contained shall be construed as restricting the right of MERIDIAN AND BIGBEE to have work customarily performed by employees included within the Scope of the Agreement from being performed by contract in emergencies that prevent the movement of traffic when additional force or equipment is required to clear up such emergency condition in the shortest time possible. In such instances, MERIDIAN AND BIGBEE shall promptly notify the General Chairman of the work to be contracted and the reasons therefore, same to be confirmed in writing within fifteen (15) days of the date of such work commences.

*NOTE: In the event the Contract with GP Mill at Naheola, Alabama is terminated, the minimum force level identified above will be reduced by two (2).*

**ARTICLE 3  
AGREEMENT POSITIONS**

POSITION:

Track Inspector  
Track Foreman  
Assistant Track Foremen  
Trackman  
Equipment Operator

Employees included within the scope of this Agreement shall perform all work in connection with the construction, maintenance, repair, and dismantling of track, road beds, structure facilities, and appurtenances related thereto, located on the right of way and used in the operation of the Carrier in the performance of common carrier service, except as provided for in the CONTRACTING article of this agreement.

**ARTICLE 4  
PROBATIONARY PERIOD**

Newly hired employees shall be approved or disapproved within ninety (90) calendar days worked after the employee's date of hire. If the employee is not disapproved in writing within a period of ninety (90) days, the employee will be considered as having passed their probationary period.

**ARTICLE 5  
BULLETINS AND ASSIGNMENTS**

1. All new positions and vacancies (except those of less than thirty (30) days' duration) shall be promptly bulletined in places accessible to all employees affected for a period of seven (7) calendar days. Such bulletin will show location, title and description of position, duties, assigned hours of service, assigned rest days and effective date of the assignment.
2. Employees desiring such position shall, within seven (7) calendar days of posting of the bulletin, file their applications with the officer, whose name is signed to the bulletin, sending copy to the General Chairman. Applications may be submitted by "fax" if followed up with a confirming telephone call. A bulletin of assignment, designating the successful applicant, shall be issued within seven (7) calendar days of the close of bidding.

3. When more than one vacancy or new position exists at the same time, qualified employees shall have the right to bid on any or all, stating preference.
4. Except in the case of illness or physical disability, employees assigned to positions on bulletin must take positions assigned within two (2) calendar days of the effective date of the assignment, unless agreed to by Company officer making the assignment and the General Chairman. The Carrier may require an employee to remain on his old assignment for a maximum of thirty (30) calendar days after the effective date of his new assignment if a qualified replacement is not readily available. An employee so held will be entitled to lost earnings (the difference between the actual earnings and the earnings one would have made on the new position).
5. When an employee bids for and is awarded a position, his former position will be bulletined if deemed necessary by the Carrier. Employees cannot bid their own vacancy, unless their position is abolished.
6. Bulletined positions may be filled temporarily pending an assignment. In the event no qualified applications are received, the position may be filled by management by appointment of the junior qualified employee. The former job of the appointed employee shall remain available to such appointed employee unless such job is abolished pursuant to the provisions of this Agreement.
7. Temporary Assignments - senior qualified person requesting the assignment will be assigned, if no one requests the temporary assignment the junior qualified employee may be assigned. An employee forced to a temporary assignment will be paid the higher rate of their current rate or the new position.

## **ARTICLE 6 PROMOTIONS, ASSIGNMENTS, AND DISPLACEMENTS**

- (a) Employees covered by these rules shall be in line for promotion. Promotion, assignments, and displacements (except for promotion or assignment to exempt or management positions) shall be based on qualifications and seniority; qualifications being sufficient, seniority shall prevail. In the application of this Rule, the term "seniority" means seniority in the rank in which the position exists and means the employee is fully qualified to perform the assignment.
- (b) Disqualified employees may submit a grievance concerning a written disqualification in accordance with Article 20 CLAIMS and GRIEVANCES.

## **ARTICLE 7 QUALIFYING**

- (a) An employee who has not established seniority but acquires a position through bidding or displacement rights and fails to qualify within thirty (30) days will be allowed two (2) days in which to exercise displacement rights.
- (b) Employees who acquire a position will be given full cooperation by supervisors and other employees in their efforts to qualify.

## **ARTICLE 8 WORK ASSIGNMENTS**

- (a) The Company shall designate a headquarters point such as a depot, tool house, shop, etc., for each regular position and each regular assigned relief position and for employees not occupying such positions. Seven (7) day's written notice will be given when designations are changed. The Company may not modify such headquarters points more than once every six (6) months. For the purpose of this section, a change of headquarters is meant a city or town.
- (b) Except as otherwise provided herein, the Company shall have sole discretion to establish, change from time to time, and abolish work assignments.

## **ARTICLE 9 STARTING TIME**

- (a) Starting time of work period for regular assigned day service will not begin earlier than 4:00 a.m. and not later than 11:00 am.
- (b) Assigned starting time will not be changed without 36 hours notice, except in emergencies.

## **ARTICLE 10 SENIORITY**

- (a) Seniority rights of employees covered by this Agreement shall be governed by these rules.
- (b) Seniority begins at the time the employee starts compensated service in a position covered by this Agreement. The existing employee list will become the seniority list on the effective date of this agreement. All employees will have Trackman seniority.
- (c) When two or more employees have the same seniority date, the numerical position on the roster will govern. In arranging the numerical standing of each employee, preference will be given in the order of the one having (1) the most seniority

in the next successive lower rank within the seniority group, (2) the earliest continuous seniority date in the sub-department in which the seniority group is included, (3) the earliest continuous seniority date in the Maintenance of Way Department, (4) by the date of birth; or (5) by lot.

(d) Employees holding positions in the Track Sub-department shall retain and continue to accumulate seniority in a lower rank while holding a position of higher rank. Employees who have not previously established seniority in lower ranks in the Track Sub-department will establish seniority in all lower ranks on that roster from the date they start in a higher ranked position within the Sub-department.

(e) Seniority rights of employees to vacancies or new positions or to perform work covered by this Agreement shall be governed by these rules.

(f) Employees voluntarily leaving service or dismissed for non-compliance with any agreement provision or Company rule will, unless reinstated on appeal, forfeit all seniority and if they re-enter the service, will be considered as new employees.

(g) Except as otherwise provided in this Agreement, seniority rights of employees covered by these rules may be exercised only in case of vacancies, new positions, reduction of forces. The parties may conclude a memorandum of agreement covering a special circumstance regarding the exercise of seniority which, in their judgment, requires such agreement.

## **ARTICLE 11 SENIORITY DISTRICT**

For the employees covered by this Agreement, the entire railroad shall constitute a single seniority district over which employees may exercise their seniority.

## **ARTICLE 12 SENIORITY ROSTERS**

(a) Seniority roster showing name, occupation and seniority dates of all employees will be posted within thirty (30) days following the effective date of this Agreement in places accessible to all employees affected. A copy of the roster will be provided to the Local and General Chairman at the time they are posted.

(b) The following rosters in the specified sub-departments will be established in the rank indicated:

(c) Track Sub-department:

- i. Track Foreman
- ii. Assistant Track Foreman
- iii. Trackman

(d) Equipment Sub-department

i. Equipment Operator

(e) The rosters will be revised and posted in January of each year and will be open to protest (for errors associated with the new roster only) for a period of thirty (30) days from date of posting and upon presentation of proof of error by an employee, or his representative, such error shall be corrected.

(f) The provision for annual revision and posting of seniority rosters shall not be construed to mean that the duly accredited representatives of the employees will be denied the right to request and receive a revised roster when reductions in forces are contemplated or when, due to turn-over in forces, the annual roster does not furnish the information necessary to properly apply the provisions of this Agreement.

(g) An employee returning from leave will have thirty (30) days to protest an error in his seniority which would have the direct effect on his seniority rights.

### **ARTICLE 13 TRACK INSPECTORS**

(a) Track Inspectors positions will not be bulletined, but employees filing written applications therefore will be considered and selected on the basis of their qualifications and capacity for greater responsibility.

(b) Employees appointed to Track Inspectors:

- 1) Will continue to accumulate seniority, and if a newly hired employee, will acquire a seniority date in the Track Foreman, Assistant Foreman and Trackman ranks based upon their first day of compensated service as a Track Inspector.
- 2) May exercise seniority rights when vacancies occur or new positions are created.

### **ARTICLE 14 RATES OF PAY**

Current Rates of pay for all positions are set out as below:

Track Inspector	\$17.00
Track Foreman	\$15.00

Assistant Track Foreman	\$14.00
Trackman (1 year experience)	\$12.00
Trackman (no experience)	\$10.50
Machine Operator Class 1 Tampers, Burro Cranes, Rail Cranes Undercutters, etc.	\$14.75
Machine Operator Class 2 Back-hoe, Regulator, Tie Crane, etc.	\$14.00

NOTE: *James Moorer and Lee Merchant to be red-circled. Their rates will not decrease, however they will not receive an increase until such time as the rates of pay for a class 2 operator and Trackman exceed their current rate*

**ARTICLE 15  
WAGE INCREASE**

Effective with the signing of this agreement, the basic hourly rates of pay as reflected in RATES OF PAY article of this agreement will receive a General Wage Increase of 3%.

Wages will increase

March 1, 2009	2 ½ %
March 1, 2010	2 ½ %
March 1, 2011	2 ½ %

Employees may receive an additional one-half per cent (1/2%) based on the employees safety performance during the preceding year (Employee has not had a reportable injury, nor determined to be partially responsible for an injury to another employee within the previous 12 month period). If the employee has not sustained a personal injury or human factor incident, they will receive the additional one-half per cent along with the GWI on March 1 of said year.

**ARTICLE 16  
OVERTIME**

(a) Overtime at 1.5 times the hourly rate will be paid for any hours in excess of 40 hours actually worked during a seven-day period ("Work Week"), such period to begin on the starting day of an employee's assignment. No paid absences will be included in the computation of overtime. Only hours actually worked.

(b) There shall be no overtime on overtime.

(c) Overtime on a territory shall go to the regular assigned employees of such territory on a seniority basis. When the regular assigned employees are not available, then the closest adjoining employee will be called on a seniority basis.

## **ARTICLE 17 LEAVE OF ABSENCE**

(a) An employee desiring to remain away from service must obtain permission from his immediate supervisor. In case of injury or illness, leave of absence may be granted upon presentation of acceptable medical evidence.

(b) When the requirements of the service permit, employees, on request, may be granted leave of absence not to exceed thirty (30) days. The Carrier may, at its discretion, extend the leave period up to an additional sixty (60) days. Leave of absence in excess of ninety (90) days in any twelve month period shall not be granted unless by Agreement between the management and the duly accredited representatives of the employees.

(c) Except for employees in service for four (4) years or less with the U. S. Armed Forces, an employee who is absent on leave and who engages in other employment shall forfeit his seniority and be considered out of service.

(d) An employee who fails to report for duty at the expiration of leave of absence shall forfeit his seniority rights, except when failure to report on time is the result of unavoidable delay, in which case the leave may be extended to include such delay.

(e) Employees desiring to return from leave of absence before the expiration thereof may be permitted to do so upon forty-eight (48) hours' written advance notice to his immediate supervisor with copy to the Local Chairman.

(f) An employee retired under the disability provisions of the Railroad Retirement Act shall retain seniority for two (2) years from the date last worked for the Carrier, but the position vacated by him upon his retirement will be bulletined for permanent appointment, unless abolished. Should he recover sufficiently to resume service during this period, he shall be permitted to exercise seniority over junior employees.

## **ARTICLE 18 LEAVE OF ABSENCE – EMPLOYEE REPRESENTATIVES**

(a) Duly accredited representatives employed exclusively by the Organization shall be granted leave of absence and may return to their former positions or exercise seniority rights within thirty (30) days after release from such employment.

(b) Other duly accredited representatives of employees shall be granted necessary time off without pay from the Carrier for hearings, consideration and adjustment of grievances, negotiations, to attend meetings of employees or other matters connected with the interests of the employees. Representatives must provide 48 hours notice to a Carrier official. For the purpose of attending meetings such as Union Conventions or Joint Protective Board meetings not less than thirty (30) days notice will be given to a Carrier Official.

## **ARTICLE 19 RETURNING FROM LEAVE**

An employee returning after leave of absence shall return to his former position provided it has not been abolished or a senior employee has not exercised displacement rights thereon. Upon return or within two (2) days thereafter, such employee may exercise seniority rights on any position bulletined during such absence. In the event the employee's former position has been abolished or a senior employee has exercised displacement rights thereon, the returning employee will be governed by the provision of Article 23 REDUCING FORCES and may displace a junior employee if such rights are asserted within two (2) days after his return. Employees displaced by his return shall have the privilege of exercising seniority rights over junior employees in the same manner.

*NOTE: This rule also applies to an employee reporting for duty after vacation, sickness, disability, suspension or after an absence for any other legitimate cause.*

## **ARTICLE 20 CLAIMS AND GRIEVANCES**

(a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the carrier authorized to receive same, within thirty (30) days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Company shall, within thirty (30) days from the date same is filed, notify whoever filed the claim or grievance (the employee or his duly accredited representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Company as to other similar claims or grievances.

(b) If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within thirty (30) days from receipt of notice of disallowance to the highest designated Company officer for handling appeals. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employee as to other similar claims or grievances. Should any such claim or grievance be disallowed on appeal, the highest designated Company officer for handling appeals shall, within thirty (30) days from the date same is filed, notify whoever filed the claim or grievance (the employee or his duly

accredited representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Company as to other similar claims or grievances. It is understood, however, that the parties may, by agreement, at any stage of the handling of a claim or grievance on the property, extend the period for either a decision or appeal.

(c) All claims or grievances involved in a decision by the highest designated officer shall be barred unless within ninety (90) days from the date of said officer's decision, proceedings are instituted by the employee or his duly authorized representative before the Third Division of the National Railroad Adjustment Board or system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend the ninety (90) days period herein referred to.

(d) A claim may be filed at any time for an alleged continuing violation of any Agreement and all rights of the claimant or claimants involved thereby shall, under this rule, be fully protected by the filing of one claim or grievance based thereon as long as such alleged violation, if found to be such, continues. However, no monetary claim shall be allowed retroactively for more than thirty (30) days prior to the filing thereof.

(e) This Agreement is not intended to deny the right of the employees to use any other lawful action for the settlement of claims or grievances.

(f) Discipline imposed and agreed to in accordance with Article 22 WAIVER OF HEARING of this Agreement shall be final with no right of appeal.

(g) This rule shall not apply to requests for leniency.

## **ARTICLE 21 DISCIPLINE**

(a) Employees will not be disciplined by suspension or dismissal until after a fair and impartial hearing, unless they accept discipline to be assessed in writing and waive formal hearing. Employees may, however, in cases management determines to be serious (such as use of intoxicants, misappropriation of Company property, insubordination or vicious conduct, etc.) be held out of service pending such hearing.

(b) An employee charged with an offense shall be furnished with a letter stating the precise charge or charges against him, with copy sent to the General Chairman. No charge shall be made that involves any matter of which the employing officer has had knowledge thirty (30) calendar days or more, except that in cases where an employee is subject to trial in the courts, the employing officer may, if he elects, withhold making a charge on the offense for which the employee is tried until not more than thirty (30) calendar days after the Carrier's knowledge of the employee's innocence or guilt.

(c) The hearing shall be held within fifteen (15) days from the date of the notice of the alleged offense, unless additional time is agreed to by the Company, employee or his representative. A decision will be rendered within ten (10) days after the Company's receipt of the hearing transcript, but in no event more than thirty (30) days after the completion of the hearing, whichever is less.

(d) Investigations shall be held when possible at home terminal of the employee involved, unless otherwise agreed between representatives of the parties. Employees shall have reasonable opportunity to secure the presence of representatives and/or necessary witnesses.

(e) Employees may be accompanied by one or more duly accredited representatives of the Union, who shall be permitted to represent the charged employee.

(f) If disciplinary action is taken, a transcript of the proceeding and copies of the exhibits entered into the record at the investigation will be furnished to the employee and his duly accredited representative. Appeals from the decision may be made in accordance with the provisions of Rule 20 CLAIMS and GRIEVANCES.

(g) If charges against the employee are not sustained, they shall be stricken from the records. If withheld from service, suspended or discharged, the employee shall be returned to service and paid for all straight time lost.

A letter of reprimand or warning will not require a hearing or be considered discipline subject to the provisions of this Rule. An employee who receives a letter of reprimand or warning may grieve the receipt of such by filing a claim under Article 20 CLAIMS and GRIEVANCES.

## **ARTICLE 22 WAIVER OF HEARING**

The undersigned employee waives hearing on the charges contained in the notice of hearing dated \_\_\_\_\_ and agrees to accept the following discipline:

*NOTE: This form is not to be used when an employee is dismissed. The discipline to be assessed shall be stated in full in the space provided above prior to acceptance by the employee.*

\_\_\_\_\_  
Employee Name

Approved By:

\_\_\_\_\_  
Company Representative

Witness:

\_\_\_\_\_  
Authorized Representative

### **ARTICLE 23 REDUCING FORCES**

(a) In reducing forces, seniority rights shall govern. Except as provided in Paragraph (e) of this Rule, at least two (2) working days' written advance notice, including the date of notice, shall be given employees affected in reduction of forces or in abolishing positions. A copy of such notice shall also be posted on bulletin boards. Employees whose positions are abolished may exercise their seniority over junior employees; other employees affected may exercise their seniority rights in the same manner. Employees whose positions are abolished or who are displaced, and whose seniority rights entitle them to a position, shall assert such rights within two (2) working days from the date actually affected. An employee who fails to exercise seniority within the two (2) day period will become furloughed. During this two (2) day period, such employee will perform work as assigned. Employees having insufficient seniority to displace other employees will be considered furloughed. An employee will not be required to displace to a position which is over 55 miles from the employees' residence. Such employee will be considered as taking a voluntary furlough.

(b) Furloughed employees will notify the proper officer (the officer authorized to bulletin and award positions) and the General Chairman of any change in address.

(c) When forces are increased or vacancies occur, furloughed employees shall be returned and required to return to service in the order of their seniority rights, except as otherwise provided in this rule. Such employees, when available, shall be given preference on a seniority basis to all extra work, short vacancies and/or vacancies occasioned by the filling of positions pending assignment by bulletin, which are not filled by rearrangement of regular forces. When a bulletined new position or vacancy is not filled by an employee in service senior to a furloughed employee, the senior furloughed employee will be called to fill the position. Furloughed employees failing to return to

service within seven (7) calendar days after being notified (by certified mail or telegram sent to the last address given) or give reason satisfactory to management for not doing so will be considered out of the service and will forfeit seniority.

(d) Furloughed employees desiring to waive their right to return to service on positions or vacancies or less than thirty (30) calendar days' duration may do so by filing written notice with the proper officer as defined above and the General Chairman; such waiver notice may be cancelled or terminated in the same manner. If a furloughed employee's recall to service would be over 55 miles from his residence, he may assume a voluntary furloughed status as outlined in Paragraph (a) herein.

(e) Advance notice to employees before positions are abolished shall not be required where any suspension of the Company's operations in whole or in part is due to a labor dispute between the Company and any of its employees.

#### **ARTICLE 24 WORK WEEK**

(a) The work week for all employees subject to this Agreement will be forty (40) hours, consisting of either five (5) days or four (4) days with two (2) or three (3) consecutive days off in each seven (7). So far as practicable the days off shall be Saturday and Sunday or include either Saturday or Sunday. However, rest days may be changed when operational requirements dictate. Subject to the overtime rule, assignments will not consist of less than forty (40) hours per week. The work week will not be changed with less than 7 days notice.

(b) Non-consecutive Rest Days – The typical workweek is to be one with two (2) or three (3) consecutive days off. The Company shall generally consider the following factors in determining non-consecutive rest days:

(1) Possible use of rest days other than Saturday and Sunday, in accordance with the other provisions of this Agreement.

(2) Other rest days that may be agreed to.

(b) Beginning of Workweek – The term "workweek" for regularly assigned employees shall mean a week beginning on the first day on which the assignment is bulletined to work.

(c) Alternate work weeks may be established by mutual agreement.

**ARTICLE 25**  
**SERVICE OUTSIDE REGULAR ASSIGNMENT (CALL OUT)**

Employees called for duty and reporting outside of regular working hours and not continuous therewith, either in advance of or following, will be paid a minimum of two and one-half (2 ½) hours at time and one-half rate for two and one-half (2 ½) hours work or less, and if held on duty in excess of two and one-half (2 ½) hours, time and one-half will allowed on a minute basis.

**ARTICLE 26**  
**MEAL PERIOD**

(a) Unless otherwise agreed to by the proper officer and General Chairman, the meal period shall not be less than twenty (20) minutes.

(b) For operations determined to require continuous hours, eight (8) consecutive hours without meal period shall be assigned as constituting a day's work, in which case, not less than twenty (20) minutes shall be allowed in which to eat, without deduction in pay, between the ending of the fourth hour and the beginning of the seventh hour after starting work.

(c) When a meal period is taken, it shall begin between the ending of the fourth hour and the beginning of the seventh hour after starting work, unless otherwise agreed to between the management and the duly accredited representative. If the meal period is not afforded within the assigned period and is worked, the meal period shall be paid for at the overtime rate and twenty (20) minutes with pay in which to eat shall be afforded at the first opportunity.

(d) Except when otherwise agreed to by employees directly affected, an employee shall not be required to work more than six (6) continuous hours from the previous meal period without being permitted twenty (20) minutes to eat without deduction in pay. Time taken for meals shall not break the continuity of service.

(e) The second meal and subsequent meals (if any) shall be furnished by the Company.

(f) The Company will furnish all meals for employees called out on their rest days or holidays to perform emergency work.

**ARTICLE 27**  
**VACATIONS**

All active full time employees with at least one (1) year of service on January 1 of each year will become eligible for vacation time off and pay per the following schedule:

<u>Length of Service Completed on January 1</u>	<u>Length of Vacation</u>
1-6 Calendar years	80 Hours
7-18 Calendar years	120 Hours
19 + Calendar years	160 Hours

A calendar year of service is defined as an employee who is in active status between January 1 and December 31.

All active full time employees with less than one (1) year of service on January 1 will become eligible for vacation benefits per the following schedule:

Eight (8) hours vacation earned for each five (5) weeks of employment prior to January 1.

All employees are required to take their vacations and may not work in lieu of the time off. Any exceptions to this policy must be authorized by the appropriate General Manager. Exceptions to this article will be made only when there are extremely compelling circumstances surrounding the request. Vacations will be scheduled through your Operations Manager in advance, keeping with the efficient operation of the location.

Any employee who leaves the service of the company will not be deemed to have earned any vacation benefits for the year of service termination. Any unused vacation benefits earned for service in the prior year will be paid to the employee.

## **ARTICLE 28 HOLIDAYS**

Employees will observe the following paid holidays each year:

NEW YEAR'S DAY  
GOOD FRIDAY  
MEMORIAL DAY  
JULY 4  
LABOR DAY  
THANKSGIVING DAY  
DAY AFTER THANKSGIVING  
CHRISTMAS EVE  
CHRISTMAS DAY

Ordinarily, all holidays are observed on the actual day. However, in some cases, observance of the Holiday will be based on operational needs.

To be entitled to this benefit, an employee must have been on the active payroll at least sixty (60) days since his last date of hire prior to the holiday. In addition, to receive payment for an observed holiday, an employee must work his full scheduled shift immediately preceding the holiday; his full scheduled shift on the actual holiday, if applicable; and his full scheduled shift immediately following the holiday.

For purposes of holiday pay, this will amount to eight (8) hours at the employee's straight-time hourly rate. Any employees who qualify for holiday pay and are required to work will receive the overtime rate of pay for all hours actually worked on the holiday.

If a Holiday occurs during an employee's approved vacation, and the employee works his scheduled work day prior to starting of his vacation and his scheduled work day following his vacation, he shall be paid for the Holiday as well.

## **ARTICLE 29 JURY DUTY**

When a regularly assigned employee is summoned for jury duty and is required to lose time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each day lost less the amount paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

a. An employee must furnish the Carrier with a statement from the court of jury allowances paid and the days on which jury duty was performed.

b. The number of days for which jury duty pay shall be paid is limited to a maximum of sixty (60) days in any calendar year.

c. No jury duty pay will be allowed for any day as to which the employee is paid vacation or holiday pay.

d. An employee will not be required to work his assignment the days on which he serves on jury duty if at the time he is released there is less than four (4) hours remaining of his regular shift. If released with more than four (4) hours the employee must immediately inform his Supervisor and report for work if advised to do so.

## **ARTICLE 30 BEREAVEMENT**

Employee's will receive an amount equal to 8 hours pay at your current rate for a maximum of three (3) days to attend the funeral of an immediate family member. This

compensation will be for time missed from work during a normal workweek while on our active payroll and not on vacation. The three days may be applied to those days before and including the day of the funeral, and where necessary for travel or other justified compelling reasons, the day after the funeral.

Immediate family is considered to be your spouse, children, parent, stepparent, step-children, parent-in-law, sibling, stepsibling, sibling-in-law, grandparents and spouse's grandparents.

The amount allowed will be at their regular rate per day, Saturdays, Sundays and holidays excepted, unless Saturday, Sunday and the holiday is a schedule working day.

If requested, documentation may be required.

### **ARTICLE 31 ATTENDING COURT**

(a) Employees taken away from their regularly assigned duties at the request of management to attend court or to appear as witnesses for the Carrier at investigations or hearings will be allowed compensation equal to what would have been earned had such interruption not taken place, and, in addition, will be paid expenses as provided for in the EXPENSE article of this agreement while away from their headquarters.

(b) Employees attending court or acting as witnesses for the Carrier at investigations or hearings outside their assigned hours shall be paid for the time devoted to such attendance a minimum of two and one-half (2 1/2) hours pay for two and one-half (2 1/2) hours or less, and at the time and one-half rate on a minute basis thereafter.

(c) Furloughed employees will be allowed a minimum of two and one-half (2 1/2) hours at time and one half. If the employee loses wages from outside employment while attending as a witness, he will receive the difference between what he is paid by the Carrier and what he would have earned at such outside employment after supplying some form of documentation or proof of loss of earnings. He will also be allowed expenses as provided for in the EXPENSE article of this agreement.

(d) In the event an employee is held away from home station on rest days or holidays, he shall be allowed a minimum of one day's pay at the straight time rates for each day so held.

(e) Any fee or mileage allowance received by the employee from the court or other tribunal accruing shall be assigned to the Company or such amounts shall be deducted as provided under this rule.

(f) Active employees failing to attend court or to appear as witnesses for the Carrier at investigations or hearings if requested to do so may be subject to discipline.

**ARTICLE 32  
EXPENSES**

- (a) Employees required to remain overnight at other than their regular headquarters will be allowed ten (\$10) dollars for each meal not provided by the Carrier and lodging.
- (b) An employee required by management to use his automobile on Company business shall be paid the current IRS mileage rate per actual highway mile.

**ARTICLE 33  
HEALTH, WELFARE, MEDICAL, DENTAL AND OTHER COVERAGE**

Health care and other insurance for the Employees shall continue in the same manner as it is provided to the other Company employees.

Employee cost-sharing amounts shall not be increased prior to January 1, 2009. Any increase in Employee cost-sharing amounts (contributions), shall be no greater than those of the other Company Employees, and shall not exceed 5% per year.

The current monthly rates to the employee for coverage are:

Single	\$ 45.00
Employee plus one	\$100.00
Family Coverage	\$150.00

**ARTICLE 34  
DRINKING WATER**

The Railroad will see to it that a reasonable adequate supply of ice and drinking water is made available to employees.

**ARTICLE 35  
SICK LEAVE**

If an employee is unable to work because of a non-related injury illness, they will be paid for Short Term Disability (STD). The amount of the benefit, 100% of the average of the previous 4 weeks of base pay after deducting any eligible Railroad Retirement Board sickness / disability benefit up to \$150.00 per week. Short Term Disability (STD) payments will continue for as long as medically necessary up to a maximum of 13

weeks in a rolling year. This 13 week period is used, consecutively and in conjunction with Family Medical Leave Act (FMLA) requirements.

If the disability is due to an accident, injury, or illness, benefits will begin as of the first day of disability. Only scheduled work days will be counted when determining the benefit's effective dates. If the absence is less than one week in duration, the benefit amount will be prorated according to the actual number of days missed. Employees may elect to use vacation days to cover any unpaid days.

Required deductions for employment taxes, Federal and State income taxes will be made from the (STD) payments. Employee contributions for medical coverage (if dependant coverage is elected) will also be deducted. (STD) benefits are not included when calculating employer contributions to the GWI 401(k) Savings plan.

Employees are eligible for the STD benefit after six months of active employment.

### **ARTICLE 36 PHYSICAL FITNESS**

(a) Examinations. Employees may from time to time be required to take a physical examination at the expense of the Carrier to determine their fitness to reasonably perform the service required, and to protect the health and safety of other employees.

(b) Medical Appeals Board. An employee determined physically unfit by Management will, at the time of his removal, be given a detailed written report listing the physical reasons that brought about his removal from his position. When an employee has been removed from his position on account of his physical condition, and the Brotherhood desires his physical fitness to be finally decided before he is permanently removed from his position, the case will be handled in the following manner:

The General Chairman will bring the case to the attention of the highest designated Regional Officer. Management and the General Chairman will each select a doctor to represent them, each notifying the other of the name of the doctor selected. The two doctors thus selected will confer and appoint a third doctor. Such Board of Doctors will then fix a time and place for the employee to meet them. After completion of the examination, they will make a full report, in triplicate and send one copy each to the highest designated Regional Officer and the General Chairman. The decision of the board of Doctors on the physical fitness of the employee to continue in his regular occupation will be final, but this does not mean that a change in physical condition will preclude a re-examination at a later date. The doctors selected for such board shall be experts in the disease from which the employee is alleged to be suffering, and they shall be located at a convenient point so that it will only be necessary for the employee to travel a minimum distance, and if possible, not to be away from home longer than a day.

The Management and the Brotherhood will each defray the expenses of their respective appointee. At the time their report is made, a bill for the fee and traveling expenses, if any, of the third appointee should be made in duplicate, with one copy to the highest designated Regional Officer and one copy to the General Chairman. The Management and the Brotherhood will each pay one-half of the fee and traveling expenses of the third appointee.

### **ARTICLE 37 COPY OF AGREEMENT**

The Carrier shall provide employees with a copy of this Agreement and amendments thereto without cost, and employees will acknowledge receipt in writing.

### **ARTICLE 38 401K**

a) Any employee may contribute to the Genesee & Wyoming Inc., 401(K) Savings Plan (the "Plan") beginning on the first day of the month following his/her date of hire.

Employees will be permitted to participate in the GWI 401(K) Savings Plan in the same manner as other employees.

b) The Carrier will make contributions to the Plan for Employees who elect to defer compensation and have savings and investment contributions made to the Plan for a given plan year. These matching contributions will be equal to one hundred percent (100%) of the amount of such deferrals for each plan year, provided that matching contribution will not exceed four (4%) of the Employees' compensation for the plan year.

c) The Plan is intended to be a "qualified" plan within the meaning of Section 401 of the Internal Revenue Code.

### **ARTICLE 39 UNION SHOP AGREEMENT**

Section 1. In accordance with and subject to the terms and conditions hereinafter set forth, all employees of the Carrier now or hereafter subject to the Rules and Working Conditions Agreements between the parties hereto, except as hereinafter provided, shall, as a condition of their continued employment subject to such agreements,

become members of the Organization party to this Agreement within ninety (90) calendar days of the date they first perform compensated service as such employees after the effective date of this Agreement, and thereafter shall maintain membership in such Organization; except that such membership shall not be required of any individual until he has performed compensated service on thirty (30) days within a period of twelve (12) consecutive calendar months. Nothing in this Agreement shall alter, enlarge or otherwise change the coverage of the present or future rules and working conditions agreements.

Section 2. (Not Applicable)

Section 3. (a) Employees who retain seniority under the Rules and Working Conditions Agreements governing their class or craft and who are regularly assigned or transferred to full time employment not covered by such agreements, or who, for a period of thirty (30) days or more, are (1) furloughed on account of force reduction, or (2) on leave of absence, or (3) absent on account of sickness or disability, will not be required to maintain membership as provided in Section 1 of this Agreement so long as they remain in such other employment or furloughed or absent as herein provided, but they may do so at their option. Should such employees return to any service covered by the said Rules and Working Conditions Agreements and continue therein thirty (30) calendar days or more, irrespective of the number of days actually worked during that period, they shall, as a condition of their continued employment subject to such agreements, be required to become and remain members of the Organization representing their class or craft within thirty-five (35) calendar days from date of their return to such service.

(b) The seniority status and rights of employees furloughed to serve in the Armed Forces or granted leaves of absence to engage in studies under an educational aid program sponsored by the federal government or a state government for the benefit of ex-servicemen shall not be terminated by reason of any of the provisions of this Agreement but such employees shall, upon resumption of employment, be considered as new employees for the purposes of applying this Agreement.

(c) Employees who retain seniority under the Rules and Working Conditions Agreements governing their class or craft and who, for reasons other than those specified in Subsections (a) and (b) of this section are not in service covered by such agreements, or leave such service, will not be required to maintain membership as provided in Section 1 of this Agreement so long as they are not in service covered by such agreements, but they may do so at their option. Should such employees return to any service covered by the said Rules and Working Conditions Agreements they shall, as a condition of their continued employment, be required, from the date of return to such service, to become and remain members in the Organization representing their class or craft.

(d) Employees who retain seniority under the Rules and Working Conditions Agreements of their class or craft, who are members of an Organization signatory

hereto representing Working Conditions Agreement of that class or craft temporarily perform work in another class of service shall not be required to be members of another Organization party hereto whose agreement covers the other class of service until the date the employees hold regularly assigned positions within the scope of the Agreement covering such other class of service.

Section 4. Nothing in this Agreement shall require an employee to become or to remain a member of the Organization if such membership is not available to such employee upon the same terms and conditions as are generally applicable to any other member, or if the membership of such employee is denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this Agreement, dues, fees, and assessments, shall be deemed to be "uniformly required" if they are required of all employees in the same status at the same time in the same organizational unit.

Section 5. (a) Each employee covered by the provisions of this Agreement shall be considered by a Carrier to have met the requirements of the Agreement unless and until the Carrier is advised to the contrary in writing by the Organization. The Organization will notify the Carrier in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, of any employee who it is alleged has failed to comply with the terms of this Agreement and who the Organization therefore claims is not entitled to continue in employment subject to the rules and working conditions Agreement. The form of notice to be used shall be agreed upon by the Carrier and the organizations involved and the form shall make provision for specifying the reasons for the allegation of non-compliance. Upon receipt of such notice, the Carrier will within ten (10) calendar days of such receipt, so notify the employee concerned in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. Copy of such notice to the employee shall be given the Organization. An employee so notified who disputes the fact that he has failed to comply with the terms of this Agreement, shall within a period of ten (10) calendar days from the date of receipt of such notice, request the Carrier in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, to accord him a hearing. Upon receipt of such request, the Carrier shall set a date for hearing, which shall be held within ten (10) calendar days of the date of receipt of request therefore. Notice of the date set for hearing shall be promptly given the employee in writing with copy to the Organization, by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. A representative of the Organization shall attend and participate in the hearing. The receipt by the Carrier of the request for a hearing shall operate to stay action on the termination of employment until the hearing is held and the decision of the Carrier is rendered.

In the event the employee concerned does not request a hearing as provided herein, the Carrier shall proceed to terminate his seniority and employment under the Rules and Working Conditions Agreement not later than thirty (30) calendar days from receipt

of the above described notice from the Organization, unless the Carrier and the Organization agree otherwise in writing.

(b) The Carrier shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the terms of this Agreement and shall render a decision within twenty (20) calendar days from the date that the hearing is closed, and the employee and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

If the decision is that the employee has not complied with the terms of this Agreement, his seniority and employment under the Rules and Working conditions Agreement shall be terminated within twenty (20) calendar days of the date of said decision except as hereinafter provided or unless the Carrier and the Organization agree otherwise in writing.

If the decision is not satisfactory to the employee or to the Organization it may be appealed in writing, by Registered or Certified Mail, Return Receipt Requested, directly to the highest officer of the Carrier designated to handle appeals under this Agreement. Such appeals must be received by such officer within ten (10) calendar days of the date of the decision appealed from and shall operate to stay action on the termination of seniority and employment, until the decision on appeal is rendered, the Carrier shall promptly notify the other party in writing of any such appeal by Registered or Certified Mail, Return Receipt Requested. The decision on such appeal shall be rendered within twenty (20) calendar days of the date the notice to appeal is received, and the employee and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

If the decision on such appeal is that the employee has not complied with the terms of this Agreement, his seniority and employment under the Rules and Working Conditions Agreement shall be terminated within twenty (20) calendar days of the date of said decision unless selection of a neutral is requested as provided below, or unless the Carrier and the Organization agree otherwise in writing. The decision on appeal shall be final and binding unless within ten (10) calendar days from the date of the decision the Organization or the employee involved requests the selection of a neutral person to decide the dispute as provided in Section 5(c) below. Any request for selection of a neutral person as provided in Section 5(c) below shall operate to stay action on the termination of seniority and employment until not more than ten (10) calendar days from the date decision is rendered by the neutral person.

(c) If within ten (10) calendar days after the date of a decision on appeal by the highest officer of the Carrier designated to handle appeals under this Agreement the Organization or the employee involved requests such highest officer in writing by Registered or Certified Mail, Return Receipt Requested, that a neutral be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide the dispute shall be selected by the highest officer of the Carrier designated to handle appeals under this Agreement or his designated representative, the Chief Executive of the Organization or

his designated representative, and the employee involved or his representative. If they are unable to agree upon the selection of a neutral person any one of them may request the Chairman of the National Mediation Board in writing to appoint such neutral. The Carrier, the Organization and the employee involved shall have the right to appear and present evidence at a hearing before such neutral arbitrator. Any decision by such neutral arbitrator shall be made within thirty (30) calendar days from the date of receipt of the request for his appointment and shall be final and binding upon the parties. The Carrier, the employee, and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

(d) The time periods specified in this section may be extended in individual cases by written agreement between the Carrier and Organization.

(e) Provisions of investigation and discipline rules contained in the Rules and Working Conditions Agreement between the Carrier and the Organization will not apply to cases arising under this Agreement.

(f) The General Chairman of the Organization shall notify the Carrier in writing of the title(s) and address(es) of its representatives who are authorized to serve and receive the notices described in this Agreement. The Carrier shall notify the General Chairman of the Organization in writing of the title(s) and address(es) of its representatives who are authorized to receive and serve the notices described in this Agreement.

(g) In computing the time periods specified in this Agreement, the date on which a notice is received or decision rendered shall not be counted.

Section 6. Other provisions of this Agreement to the contrary notwithstanding, the Carrier shall not be required to terminate the employment of an employee until such time as a qualified replacement is available. The Carrier may not, however, retain such employee in service under the provisions of this section for a period in excess of sixty (60) calendar days from the date of the last decision rendered under the provisions of Section 5, or ninety (90) calendar days from date of receipt of notice from the Organization in cases where the employee does not request a hearing. The employee whose employment is extended under the provisions of this section shall not, during such extension, retain or acquire any seniority rights. The position will be advertised as vacant under the bulletining rules if the position is not abolished of the respective agreements but the employee may remain on the position he held at the time of the last decision, or at the date of receipt of notice where no hearing is requested pending the assignment of the successful applicant, unless displaced or unless the position is abolished. The above periods may be extended by agreement between the Carrier and the Organization involved.

Section 7. An employee whose seniority and employment under the Rules and Working Conditions Agreement is terminated pursuant to the provisions of this Agreement or whose employment is extended under Section 6 shall not have time or money claims by reason thereof.

If the final determination under Section 5 of this Agreement is that an employee's seniority and employment in a craft or class shall be terminated, no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, mis-application of noncompliance with any part of this Agreement shall arise or accrue during the period up to the expiration of the sixty (60) or ninety (90) day periods specified in Section 6, or while such determination may be stayed by a court, or while a discharged employee may be restored to service pursuant to judicial determination. During such periods, no provision or any other agreement between the parties hereto shall be used as the basis for a grievance or time or money claim by or on behalf of any employee against the Carrier predicated upon any action taken by the Carrier in applying or complying with this Agreement or upon an alleged violation, mis-application or noncompliance with any provision of this Agreement. If the final determination under Section 5 of this Agreement is that an employee's employment and seniority shall not be terminated, his continuance in service shall give rise to no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, mis-application or non-compliance with any part of this Agreement.

Section 8. In the event that seniority and employment under the Rules and Working Conditions Agreement is terminated by the Carrier under the provisions of this Agreement, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the Organization shall indemnify and save harmless the Carrier against any and all liability arising as the result of such improper, unlawful, or unenforceable termination of seniority and employment: Provided further, that the aforementioned liability shall not extend to the expense to the Carrier in defending suits by employees whose seniority and employment are terminated by the Carrier under the provisions of this Agreement.

Section 9. An employee whose employment is terminated as a result of non-compliance with the provisions of this Agreement shall be regarded as having terminated his employee relationship for vacation purposes.

Section 10. The Carrier shall periodically deduct from the wages of employees subject to this Agreement periodic dues, and initiation fees, uniformly required as a condition of acquiring or retaining membership in such Organization, and shall pay the amount so deducted to such officer of the Organization as the Organization shall designate: Provided, however, that the requirements of this Subsection (a) shall not be effective with respect to any individual employee until he shall have furnished the Carrier with a written assignment to the Organization of such membership dues, initiation fees and assessments, which assignment shall be revocable in writing after the expiration of one year or upon the termination of this Agreement which ever occurs sooner.

**ARTICLE 40  
UNION DUES DEDUCTION AGREEMENTS**

Section 1. (a) The Company shall, subject to the terms and conditions of this Agreement, periodically withhold and deduct sums for monthly membership dues and assessments (not including fines and penalties) uniformly required as a condition of retaining union membership, due the Brotherhood from the wages due and payable to employees working under agreements between the Company and the Brotherhood, who are members of the Brotherhood, and who have so authorized the Company by signed authorizations.

(b) The Brotherhood shall assume the full responsibility for the procurement and proper execution of said authorization forms, and for delivery of said forms to the Company no later than the first day of the second payroll period of the month from which the deductions are to be made. Likewise, revocation of authorization forms shall be delivered by the Brotherhood to the Company not later than the first day of the second payroll period of the month in which termination of deductions is to take place.

Section 2. (a) Deductions, as provided herein, shall be made by the Company in accordance with a master deduction list prepared by the General Secretary-Treasurer of the Brotherhood, listing each affected employee in employee number order. Such list, together with authorization forms, shall be furnished to the Company on or before the first day of the month proceeding the month in which deductions are to take effect under the provisions of this Agreement.

(b) Thereafter, any deletions or additions to the master deduction list, or any changes in the amounts to be deducted from the wages of employees, shall be furnished to the Company not later than the first day of the second payroll period of the month in which such changes are to be made, such information to be accompanied by the proper authorization or revocation forms. Any changes shall be given to the Company not later than the first day of the second payroll period of the month on a copy of the list the Company will furnish the General Secretary-Treasurer, which is referred to in Section 4 of this Agreement.

Section 3. (a) Deductions will be made from the wages earned in the second payroll period of the month in which the aforementioned certified statements are furnished to the Company.

(b) The following payroll deductions will have priority over deductions in favor of the Brotherhood as covered by this Agreement:

Federal, state and municipal taxes.

Deductions required by law and court orders, including garnishments, liens and other wage assignments which the Company must respect.

Amounts due the Company.

Group insurance premiums.

(c) If the earnings of any employee, after all deductions having priority have been made, are insufficient to remit the full amount of deductions authorized by the employee, no deduction for union dues or assessments shall be made by the Company from the wages of the employee and the Company shall not be responsible for such collection. In cases where no deduction is made from the wages of an employee due to insufficient earnings, or for other reasons, the amounts not deducted shall not be added to the deduction lists nor will that deduction be made for the employee in any subsequent payroll period.

(d) Responsibility of the Company under this Agreement shall be limited to remitting to the Brotherhood amounts actually deducted from the wages of employees pursuant to this Agreement. The Company shall not be responsible financially or otherwise for failure to make deductions or for making improper or inaccurate deductions. Any questions arising as to the correctness of the amounts deducted shall be handled between the employee involved and the General Chairman, and any complaints against the Company in connection therewith shall be handled with the Company by the General Chairman. Nothing herein shall be construed as obligating the Company to collect any dues or assessments from employees who leave its service, or who give up membership in the Brotherhood for any reason, or whose wages shall be involved in any claim or litigation of any nature whatsoever.

Section 4. The Company will remit to the union official designated by the General Chairman the amounts due the Brotherhood deducted from the wages of members, making such remittance not later than the last day of the month following the month from which the deductions are made. The Company will, at the time of such remission, furnish the designated union officer a list of the employees, in employee number order, from whom deductions were made, showing the amount of such deductions.

Section 5. Except for remitting to the Brotherhood monies deducted from the wages of employees, as described in Section 4 hereof, the Brotherhood shall indemnify, defend and save harmless the Company from and against any and all claims, demands, liability, loss or damage resulting from the entering into this Agreement or arising or growing out of any dispute or litigation from any deductions made by the Company from the wages of its employees for or on behalf of the Brotherhood.

Section 6. This Agreement is subject to the provisions of the applicable federal and state laws now in existence or enacted in the future.

(a) This Agreement is subject to immediate cancellation by written notice to the General Chairman of the Brotherhood if the Company is required by federal law or the law of any state in which it operates, to change its pay date or payroll procedures in such a manner as to make dues deduction an unreasonable burden.

(b) This Agreement shall be automatically terminated as of the date official notification is received from the National Mediation Board of a change in the representation of employees now represented by the Brotherhood signatory to this Agreement, or upon termination of the rules and working conditions agreement between the parties.

Section 7. No part of this Agreement shall be used in any manner whatsoever, directly or indirectly, as a basis for a grievance (except as provided in Section 3(d)) or time claim by or on behalf of an employee.

#### **ARTICLE 41 EFFECT OF AGREEMENT**

(a) This Agreement shall become effective on ratification and shall remain in effect until and unless changed under the provisions of the Railway Labor Act, as amended, or by mutual consent of parties signatory hereto.

(b) The parties signatory hereto shall not serve nor progress prior to January 1, 2011 (not to become effective prior to July 1, 2001) any notice or proposal for changing any provision contained herein.

The provisions under Paragraph (b) above shall not bar the Carrier and Organization from agreeing upon any subject of mutual interest.

APPROVED AND SIGNED AT JACKSONVILLE, FLORIDA

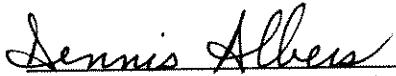
**MERIDIAN AND BIGBEE:**

  
\_\_\_\_\_

Gerald T. Gates  
President – Southern Region  
Genesee & Wyoming Inc.

Dated: 4/7/08

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION**

  
\_\_\_\_\_

Dennis Albers, General Chairman

  
\_\_\_\_\_

J. R. Cook, Vice President

Dated: 4.2.08



**Subj:** RE: retroactive pay  
**Date:** 5/22/2008 7:32:10 A.M. Central Daylight Time  
**From:** ladams@gwrr.com  
**To:** Dralbersbmwe@aol.com  
**CC:** rleggett@gwrr.com, dvincent@gwrr.com

Please find below the rates which were processed on 04-16-08. I will check with Rick concerning the e-mail sent on 04-18-08, and respond accordingly.

Thank you,

Lynn

---

**From:** Dralbersbmwe@aol.com [mailto:Dralbersbmwe@aol.com]  
**Sent:** Thursday, May 22, 2008 7:40 AM  
**To:** Lynn Adams; Rick Leggett  
**Subject:** retroactive pay

Lynn - according to Mr. Leggett e-mail sent to Mr. Cook at 1:36 p.m. on April 18, 2008, retroactive pay would start on March 24, 2008.

Also, the members listed below claim they did not receive the GWI.

Employees: Willie Noble \$17.51  
Roger Glover \$12.36  
Quentin Sharp \$12.00 – new hire  
Patrick Martin \$17.51  
James Carson \$15.45

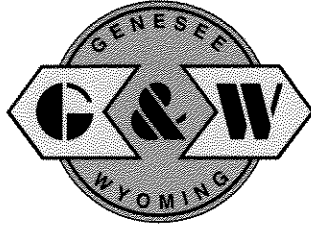
Please advise.

Dennis Albers  
General Chairman

---

Get trade secrets for amazing burgers. Watch "[Cooking with Tyler Florence](#)" on AOL Food.





April 7, 2008

Dear Dennis Albers,

Enclosed for your review are 4 signed copies of the Collective Bargaining Agreement between The Meridian and Bigbee Railroad and the Brotherhood of Maintenance of Way Employees Division of the IBT.

I would like to thank you for the professionalism you and your team displayed throughout these negotiations. We are committed to fully implementing this agreement in cooperation with you on the M&B property.

I appreciate the attitude and efforts of your team in helping us reach our goals of Zero Injuries & Zero Human Factor Incidents every day.

Sincerely,

Gerald T. Gates



April 11, 2008

Gerald Gates, President SR  
Genesee & Wyoming, Inc.  
Suite 102  
4337 Pablo Oaks Court  
Jacksonville, FL 32224

Dear Mr. Gates:

In recognition that Article 15 provides for employees under the Meridian & Bigbee Collective Bargaining Agreement to receive their pay increases ( including any bonus provided for under this article ) on March 1<sup>st</sup> of the calendar year, in order to allow the Meridian & Bigbee to take advantage of other payroll periods and check disbursement's of the Genesee & Wyoming we propose the following:

Provided the General Chairman is notified in writing not less than 15 days prior to such disbursements, the Meridian & Bigbee Railroad may pay any bonus's due to employees at the same time that bonus's are paid to other Genesee & Wyoming employees so long as those payments are made during a period up to ninety (90) days previous to March 1 of the calendar year.

If you are in agreement with this proposal please sign two copies and forward to my office for file and distribution.

Sincerely

D.R. Albers  
General Chairman

cc: J. R. Cook

Agreed:

  
\_\_\_\_\_  
Gerald T. Gates





## Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

Freddie N. Simpson  
*President*

Perry K. Geller, Sr.  
*Secretary-Treasurer*

April 20, 2008


D.R. Albers, General Chairman  
114 Canfield Place #A-8  
Hendersonville, TN 37075-3688

Dear Dennis:


Enclosed you will find the side letter for the M&B already signed by Mr. Gates. It's not on letterhead but that's OK. Please sign both copies. Keep one and send the other original to Mr. Gates. Please forward a copy back to me for my files.

It didn't take them long to decide on this one, I expected some kind of counter or change to our proposal, but instead they just printed and signed.

Fraternally,

  
J. R. Cook  
Vice President






April 11, 2008

Gerald Gates, President SR  
Genesee & Wyoming, Inc.  
Suite 102  
4337 Pablo Oaks Court  
Jacksonville, FL 32224

Dear Mr. Gates:

In recognition that Article 15 provides for employees under the Meridian & Bigbee Collective Bargaining Agreement to receive their pay increases ( including any bonus provided for under this article ) on March 1<sup>st</sup> of the calendar year, in order to allow the Meridian & Bigbee to take advantage of other payroll periods and check disbursal's of the Genesee & Wyoming we propose the following:

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If you are in agreement with this proposal please sign two copies and forward to my office for file and distribution.

Sincerely

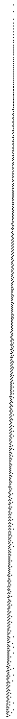
D.R. Albers  
General Chairman

cc: J. R. Cook

Agreed:

---

Gerald T. Gates





## Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

Freddie N. Simpson  
*President*

Perry K. Geller, Sr.  
*Secretary-Treasurer*

April 2, 2008


Gerald T. Gates  
President Southern Region  
Genesee & Wyoming Inc.  
Suite 102  
4337 Pablo Oaks Court  
Jacksonville, FL 32224

Dear Mr. Gates:

Enclosed you will find 4 copies of the Collective Bargaining Agreement between The Meridian & Bigbee Railroad and the Brotherhood of Maintenance of Way Employees Division of the IBT which already contain my signature for approval.

Please sign all four copies and forward to Dennis Albers, General Chairman, who's address is :

Allied Federation  
114 Canfield Place # A-8  
Hendersonville, TN 37075-3688

4/5/08  Upon receipt from you, he will sign the agreements and forward 2 completed copies back to you and one completed copy back to me.

Sincerely,

  
J. R. Cook  
Vice President

cc: D.R. Albers

J.R. Cook  
*Vice President Southeast Region*

11467 Coates Hwy.  
Brethren, MI 49619-8702

Telephone 231-477-5722  
Facsimile 231-477-5723  
Email: jrc@bmwe.org



