

*"An Injury To One Is An Injury To All"*

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Office of the General Chairman  
Jed Dodd

December 14, 2011

Dear Brothers and Sisters,

Re: Amtrak Safety Crisis Follow Up

Last month I wrote to you about the current safety emergency on the Northeast Corridor. Over the course of a short period of time, we had a series of close calls and incidents. Our concern was that another employee fatality was inevitable. There have been 17 members of the Union killed on the job since the beginning of Amtrak in 1976, and most of these Brothers were hit by trains. It is a huge mistake to think that it cannot happen to you, and currently, conditions exist where it is more likely to happen again.

There is a changing of the guard occurring on the property, where guys, like myself will be retiring and new leadership will be taking over the repairing of infrastructure and leading the Union. The death of 17 coworkers is a tough, bitter pill to swallow and after the loss of each our Brothers we organized and fought with management for reforms to make our job sites safer. Those lessons and those struggles will be retiring with us and our only desire is that the new generation of track foreman, machine operators, lineman, welders, carpenters and Union chairmen do not have to learn these lessons the same way we did. Our letter was not meant to cast blame on anyone. We are way beyond that in our safety thinking. Our only purpose was, and is, to create a program where no one dies senselessly and needlessly.

A positive aspect that has resulted from this discussion is that the leadership of the Supervisor's Union has reached out to us and wants to work jointly with us on improving job site safety. While I am sure we will have our differences, the more that the Unions can work together, the greater the benefit will be for all concerned.

During this discussion on safety we have learned that we have not done a very good job of communicating about our struggle for safe working conditions to our younger or newer membership. Rights and power that many of the older workers view as hard earned are not understood by our newer members. We will attempt to educate our younger members about these rights in the few years we have left, but these lessons are better learned when

they are exercised. The purpose of this letter is to outline the rights that you have on the job in the hopes that you exercise them and perhaps prevent another needless fatality, or serious accident, from occurring and maybe even save your own life.

## **Roadway Worker Protection Rules are Worker's Rights**

Roadway Worker Protection rules are rights that the Union fought for and had enacted into federal law. Their existence is a great victory for the members of this Union. The Federal Railroad Administration was forced to put them into law when we struck Conrail in the early 1990s. We struck Conrail because the management enforced working conditions that resulted in two fatalities and a serious maiming incident in a two month period of time and refused to meet with us to correct the problem. Management fought tooth and nail against the enactment of these rules and some of them are still saying the railroad was a safer place before we had these rules. The bosses who advocate this nonsense are ignoring the reality of the facts. The evidence shows that the railroad is a significantly safer place to work because of these rules and it is when management cuts corners and attempts to weaken and undermine these rules that the job becomes more dangerous.

Federal Rule 214.327(a) states as follows:

“Train approach warning shall be given in sufficient time to enable each roadway worker to move to and occupy a previously arranged place of safety not less than 15 seconds before a train moving at maximum speed authorized on that track can pass the location of the roadway worker.”

This rule was paid for with the blood of Union members. Scores of railroad workers were struck and killed by trains before this rule became a Federal regulation. Furthermore, the Federal regulations in Rule 214.311(b) state:

“Each employer shall guarantee each employee the absolute right to challenge in good faith whether the on-track safety procedures to be applied at the job location comply with the rules of the operating railroad, and to remain clear of the track until the challenge is resolved.”

This is the law. However, the problem with government regulations isn't that there are too many, but that there are not enough Federal employees to enforce them. Moreover, while this has changed somewhat recently with the election of President Obama, in the case of the Federal Railroad Administration many of the enforcers are former members of railroad management. They will often bend over backwards to see it management's way because of the revolving door between jobs enforcing law and jobs with the industry that is being regulated. In 1992 when Foreman Loveless was struck and killed by a passenger train near Grundy Tower it was determined that none of Amtrak's own safety rules or operating rules were being followed. At this point, we demanded and obtained significant safety protections in our collective bargaining agreement. That agreement states as follows:

“Amtrak and the BMW agree to use their best efforts to ensure that all applicable local, state, and federal laws or regulations, and Amtrak safety rules are properly applied. It shall not be a violation of this agreement or any company rule for employees to refuse to start work, return to work, or continue working when any condition exists that violates an applicable local, state, or federal law or regulation or Amtrak Safety Rule or procedure. Employees exercising their right under this Article shall be governed by Attachment 4 to this agreement.” [Attachment 4 provides for a panel that is 50% Union to make a final determination of the practice but at no time during the work stoppage can an employee be disciplined until the panel makes a decision.]

Before the enactment of these Federal regulations, and the signing of the safety agreement, our job sites were industrial war zones and often quite violent. When we say we fought for better conditions we are being very literal. If you were a local grievance officer, or a member of the Union safety committee, making demands for safe conditions, or requesting that Amtrak’s safety rules be followed, you would be put out of service for insubordination. In those days, we did not have a rule that paid you if you were put out of service for standing up for your rights. Many men in this Union stood up and the only protection we had was sticking together against a ruthless and nasty management. In the end that solidarity won the day.

The enactment of these rules, and the negotiation of the safety agreement, have made our job sites much safer and permit us to demand safer conditions without risking our jobs every time we make the demand. Since these reforms, there has never been a member of this Union disciplined on Amtrak for demanding that the rules be followed and before that it was a routine occurrence. When you don’t use these rights, and demand to be in a place of safety 15 seconds before the train approaches your job location, then you defame those who died and those who risked their jobs to ensure that these rights exist. Our jobs are still incredibly dangerous, but we have the rights and the power now to make them safer.

## **Federal Railroad Safety Act**

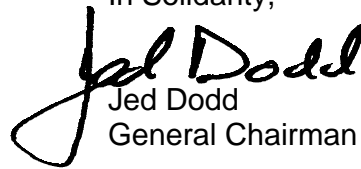
Railroad management cares only about their bottom line. There is no individual manager who wants to be responsible for having someone under their supervision hurt, or killed. However, that doesn’t mean that they will take responsibility for the conditions that cause injuries. The law requires that management provide a safe place to work. Amtrak pays out millions of dollars every year in injury settlements because they fail to provide this safe place to work. As a result, Amtrak has entire departments of the company that are devoted to establishing procedures to make you responsible for your own injury, or death, and to intimidate you from reporting injuries. This is still a problem and in 2008, the government enacted a new law called the Federal Rail Safety Act. Section 20109 of this law makes it a violation of federal law to discharge, demote, suspend, reprimand, or do any other harm in retaliation for reporting a violation of federal law, filing a complaint related to railroad safety enforcement, or reporting a work related injury or illness. If retaliation occurs within 180 days of when you report it to the Occupational Safety and Health Administration

then you can have a federal investigator investigate your complaint. Members of the Union have been awarded anything you lost as a result of the violation as well as punitive damages. Railroad management is being forced to change their policies with regard to the reporting of injuries because they are paying out hundreds of thousands of dollars to individuals when they violate their rights.

These are powerful rights, but they are only powerful if you use them. We have a proven track record with our safety agreement with Amtrak and no one who has used it to enforce rule compliance has been disciplined. Equally important, on almost every occasion when workers demanded regulations enforced, our safety agreement has forced management to create a safer work environment. Unfortunately, in our industry if you choose not to enforce your rights then you might be choosing to attend someone's funeral.

We have a long way to go before we have safe work sites. Along the process to a safe work sites there will be difficult challenges to face, but if we do not put aside our own personal feelings and work together towards this goal we may find ourselves trying to explain to a coworker's family why their spouse or parent are not coming home that night.

Have a safe and happy holiday.

In Solidarity,  
  
Jed Dodd  
General Chairman

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