

**Pennsylvania Federation BMWED - IBT
Northeast System Federation BMWED- IBT
Amtrak Eastern General Committee - BRS
American Railway and Airway Supervisors Association - IAM**

421 North Seventh Street
Suite 299
Philadelphia, PA 19123

overnight mail

April 13, 2016

National Railroad Passenger Corporation
Joe Boardman, President
60 Massachusetts Avenue
Washington, DC 20002

Mr. Boardman:

**STATE OF EMERGENCY CURRENTLY EXISTS
ON AMTRAK'S NORTHEAST CORRIDOR
PASSENGERS AND EMPLOYEES IN IMMINENT DANGER!**

On April 3, 2016 Amtrak train 89 collided with a backhoe performing track work on Amtrak's mainline in Chester, PA. This collision resulted in the deaths of a equipment operator and a supervisor, both long service and dedicated Brothers. In addition, dozens of passengers were injured, thankfully none fatally. We believe that a "perfect storm" of corporate changes, made since you became the President of Amtrak, are largely responsible for this terrible tragedy. This includes changes in management competence, employee training, safety procedures and close call reporting, generational changes in employee makeup, the corporate culture which is now based upon fear and intimidation and punitive disciplinary programs designed to silence people rather than correct problems like those that resulted in this terrible tragedy. We believe that this immediate threat continues and creates a hazardous condition which presents imminent danger to those who are working, or riding, on Amtrak's mainline North East Corridor.

To be clear, and to avoid any misunderstanding, this letter is being written to you within the framework of the Federal Railroad Safety Act, 49 U.S.C. & 20109(b), ("FRSA" which states, in part, as follows:

(b) *Hazardous safety or security conditions, --*

(1) *A railroad carrier engaged in interstate or foreign commerce, or an officers or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for --*

(B) *refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or*

(2) *A refusal is protected under paragraph (1)(B) and © if --*

- (A) *the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;*
- (B) *a reasonable individual in the circumstances then confronting the employee would conclude that –*
 - (i) *the hazardous condition presents an imminent danger of death or serious injury;*
 - (ii) *the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and*
- [C] *the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.*

1. Close Call Reporting Procedures

In early 2000 Amtrak, with the support of the engineering unions, adopted a corporate close call procedure that specifically removed employee discipline from the equation so that joint teams of management and union could investigate the close call, get to the truth of the matter and take steps to prevent them. A copy of this close call procedure is attached for your ready reference but it states, in relevant part,

"Employees must be encouraged to share experiences that can benefit themselves or others. This is best accomplished in an environment free of criticism, discipline, and retaliation. Response to the voluntary reporting of close calls must be non-punitive in order to foster honesty and forthrightness. Employees must feel they can speak freely when reporting close calls."

The idea is that we investigate all incidents in an atmosphere free of intimidation before they become fatalities, or other serious accidents. In the last few years there has been a significant turnover in managers which resulted in new managers who have no railroad experience, or appreciation for our history on this subject and they have assumed the leadership at Amtrak. In late 2014, when these senior managers learned of the existence of this close call policy they promptly terminated it.

From 2000 - 2014 (14 years) there were four employee fatalities in the engineering department, two were the result of employees being struck by trains. From 2014, without the close call policy in effect, to the present (less than 2 years) there have been three employee fatalities in the engineering department, all struck and killed by trains.

Recently, you wrote and misinformed the employees that the engineering Unions were the hold up in the implementation of the Federal Railroad Administration's, "Confidential Close Call Reporting System." While it is true we have been reviewing the proposal and have not signed it because we do not believe it gives sufficient protection to all involved in the close call report, management has also not been willing to sign the document. If Amtrak were to reinstate the Close Call Reporting Policy that was in place in 2000, and make it an attachment to the FRA agreement we will sign it tomorrow. **However, in any event:**

We demand an immediate reinstatement of the Close Call Policy that was in effect in 2000 and made into an agreement with the engineering unions and further that it can not be changed or modified except in accordance with the Railway Labor Act.

2. Employee Training Inadequate and Pathetic

On October 1, 2003, Amtrak management unilaterally took Roadway Worker Protection (RWP), Northeast Operating Rules (NORAC) and physical characteristics training and qualification from the engineering department and put it under the Human Capital Department. These positions were made management positions and some of the rank and file trainers accepted these positions. Up until this time the training was performed by rank and file engineering department employees who had practical experience and knowledge in the areas that they were teaching. The teaching was relevant and based upon practical experience.

Very few of the former engineering department rank and file trainers, if any, are left and the training is now provided by management "trainers" who have no practical experience working on the railroad. This book training without the practical experience is very poor. There are also instances where the information being taught is not correct. Recently, one of our senior foreman had to challenge a "trainer" when the trainer said the only time that shunt straps were to be applied to a track is when a piece of track equipment is on it for five minutes or more, which is clearly not supported by NORAC Rule 140-S2. In another instance, with the same "trainer" and foreman the trainer said that employees only had a right to "challenge," and not refuse to work, when confronted with a situation in which they are ordered to work in violation of the RWP rules. This is clearly not the case and we have agreements that specifically state otherwise.

All references to the shunting rules were unilaterally removed from the RWP training and the RWP manual in July 2014. The shunting rules need to be returned to the RWP training and the manual. Everyone is trained on RWP, but not everyone is trained on NORAC. Shunting issues played a major role in the Chester accident and reducing the number of employees who are trained and have knowledge of the shunting rules is an error.

In 2009 labor and management developed a "Hot Spot RWP" book to assist in the placing of sufficient watchmen, to be used when the method of protection is gang watchmen, to ensure that employees are in a place of safety 15 seconds before the train passes their worksite. There are many places on the railroad where multiple watchmen are needed and this has always been a source of conflict between management and labor. The purpose of the book was to assist by defining the minimum necessary to perform the work safely. These minimum numbers were developed by teams of management and labor going to each location on the railroad and timing the approach of a train around curves and other sight obstructions and then agreeing on the minimum number of watchmen that are needed. The training department is refusing to supply these books to the RWP training classes. Trainers in the RWP training are stating that the book is no longer relevant. Managers are stating to our rank and file that System Safety is saying that the book is no longer in effect. Unless I am mistaken, the infrastructure has been pretty much the same for the last 100 years and the increase in train speeds in the last 10 years will not have an effect on the numbers needed.

In addition, the training that was adequate for a bargaining unit where with most foreman routinely had ten or more years of foreman seniority, and the average seniority in general was twenty years, is not adequate for the current bargaining unit where the majority of workers have less than five years seniority and half or more of the foremen have less than five years seniority in the foreman classification. The training program needs to be completely revamped because of these new realities

and must include practical field experience. Also, training should include an effective mentoring program for all foreman in general, but mandatory for first time foreman and for foreman who are starting a first time assignment.

With respect to the training we demand the following:

- 1. All regulatory training and qualification, including but not limited to RWP, NORAC and physical characteristics, be returned to the jurisdiction of the engineering department and that agreements be reached with the three unions concerned to have this training and qualification performed by rank and file bargaining unit employees.**
- 2. Currently, there is one Supervisor foreman mentor for all 250 track foremen. This program must be greatly augmented so that all first time foreman are given at least 30 days of on site, day to day mentoring by qualified and experienced engineering department employees and all foreman who report to an assignment for the first time are provided ten days of mentoring, or more if requested or needed. That Amtrak immediately sit down with the three engineering department unions and work out agreements to accomplish this.**
- 3. That Amtrak immediately sit down with the three unions involved and we appoint a working committee tasked with revamping the RWP, NORAC and physical characteristics training and qualification process to make it more effective and include as much practical foundation as possible. That this committee be given the resources and time to complete their duties in 30 days, and report back their recommendations, and that Amtrak immediately sit down with the three unions involved and work to implement these recommendations.**
- 4. That the shunting rules be restored to the RWP manual.**
- 5. That the Hot Spot book be reissued to each employee at the RWP qualification classes, that it become an integral part of the training program, that clear instructions be issued to all Managers to use and implement the minimum numbers suggested whenever watchmen protection is to be used and that an employee advisory be sent to all employees highlighting the need to use the Hot Spot book when posting watchmen.**

Management Competence and Developing a Corporate Culture of Fear and Intimidation

Since you assumed the reigns of Amtrak you have systematically replaced the senior operations management, who had extensive railroad operations and maintenance experience, with a

team that has no experience in these areas. This team of know nothing railroad managers have systematically begun to purge and discharge many middle level managers who have vast railroad operations and maintenance experience. This has resulted in a climate of fear and intimidation where railroad management employees are afraid to speak up, or take initiative to manage the railroad. This has also resulted in bad leadership, or no leadership in the field. Your team has consolidated all power and decision making into their small circle. This results in managers who need authority to make day to day decisions to manage their areas of jurisdiction, they do not have necessary decision making authority to effectively manage. What little authority they do have they are afraid to exercise for fear they will be disciplined. An example of this problem is, we now work for a Chief Engineer who does not have authority to advertise bargaining unit vacancies in his own engineering department even when the collective bargaining agreement Amtrak has signed requires him to do so.

While exercising no leadership in the field, and squelching any manager that seeks to exercise leadership, your team has brought us the cardinal rules and a discipline policy that is so draconian that no one wishes to voice an opinion for fear of being severely disciplined, or getting someone else severely disciplined. It has also resulted in decisions like the one to bring former Chief Engineer Robert Puciloski of Metro North to fill the New York Division Engineer's position. Metro North might have an even worse record with respect to employee and passenger safety than Amtrak. Illustrative of newly hired Amtrak Division Engineer Puciloski's role at Metro North is information found in the attached Dailey News report where he readily admits that basic track inspection and maintenance procedures were not followed causing a derailment under his jurisdiction. This type of bad decision making and staffing decisions is rampant throughout the company.

This issue was recently highlighted in a Philadelphia Inquirer news article dated July 12, 2015, by veteran transportation reporter Paul Nussbaum titled, *"TURMOIL AT THE TOP, SOME SEE AMTRAK'S MANAGEMENT TURNOVER AT CRITICAL TIME."* This article was written following the tragic aftermath of the May 12, 2015, accident that took the lives of 8 passengers and is very critical of the changing Amtrak management. He quotes a former Amtrak executive as saying, *"But people are more concerned about keeping their jobs than doing their jobs."* A copy of the article is attached.

The issue of a culture of fear and intimidation developing under your administration is reinforced again in the press in an October 15, 2015, article written by investigative reporters Stuart Silverstein and Brian Joseph for FairWarning titled, *"For Big Railroads, a Carload of Whistleblower Complaints."* Amtrak has the dubious distinction of being in the top ten companies in the COUNTRY for OSHA whistleblower complaints which charge Amtrak with retaliation against employees who raise safety concerns. A copy of this article is also attached.

There are other examples of bad decision making that is a direct result of the corporate culture you have brought to us. Amtrak ordered the same men who worked regularly with the men who were killed on April 3 to pick up the pieces of the backhoe that was scattered all over the tracks from the accident. There are no words that can adequately describe this level of ignorance. A humane and reasonable management would have sent each of these men and women home for a week or at least not permitted them on the tracks so they can heal. Your idea of sending out an 800 number so EAP can give them a hug, as a sufficient response to this tragedy, is unfortunately something we have come to expect. Not one manager had the courage to stand up and say it was wrong for the long term friends and coworkers of the fatally injured employees, to be on the tracks, or picking up after the accident.

In order to correct this very real problem, we demand:

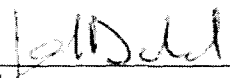
- 1. Amtrak discharge DJ Stadtler, Executive Vice President Chief Operations**

Officer; Barry Melnkovic, Executive Vice President Chief Human Capital Officers; Scott Naparstek, Senior Vice President Operations and Michael Logue, Chief Safety Officer and replace them with individuals who have extensive experience in operating and maintaining a railroad.

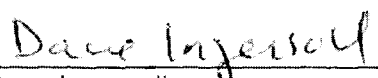
- 2. That the dismissal policy associated with the cardinal rules be disavowed and the traditional discipline matrixes be reinstated. We agree with Amtrak that the cardinal rules should be followed. We do not think terrorizing the employees is the way to get them followed. Your current policy only allows us to only know when the cardinal rules are being violated when there is a serious incident. Surely, we can do better than this. The policy does not work and is self- defeating. It is a policy designed by a management team that does not know how to manage a railroad.**
- 3. Amtrak negotiate with the Unions to amend their seniority retention provisions that permits Amtrak managers who are fired for other than theft of fighting be permitted to fill vacancies back into the craft from which they were promoted.**

Do not underestimate our resolve to protect the lives of the members of our Unions. We are willing to take any and all steps necessary to ensure that the lives of our members and the riding public are protected. Please implement these reforms immediately. If you desire to meet we are ready to meet to discuss these reforms and their implementation. If you will not meet with us personally please arrange for us to meet with someone who has the authority to act for Amtrak.


For the safety of the men and women who spill sweat and blood on this railroad every day we await your response.



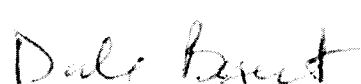
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