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May 24, 2012

The Honourable David Wilks, MP  
Kootenay - Columbia  
100 Cranbrook Street North, Suite B (Main Office)  
Cranbrook, British Columbia  
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[David.Wilks@parl.gc.ca](mailto:David.Wilks@parl.gc.ca)

Dear Mr. Wilks,

I am writing to you regarding the current labour dispute between my labour organization and my employer Canadian Pacific Railway and reports that the government is considering legislation to order employees back to work and impose a collective agreement.

As railway running trades employees (Locomotive Engineers and Conductors) at CP we are not unfamiliar with back to work legislation resulting in imposed work conditions. Since 1950 the federal government has legislated railway workers back to work and imposed settlements on at least 8 occasions. Each time we have accepted the will of government and the conditions imposed through this process. The simple fact is that the threat of government intervention has become a factor at the bargaining table in every round of collective bargaining for our group, particularly since 1995 and the introduction of Bill C-77 Maintenance of Railway Operations Act. Bill C-77 provided that the three member commissions established through *"be guided by the need for terms and conditions of employment that are consistent with the economic viability and competitiveness of a coast-to-coast rail system in both the short and the long term, taking into account the importance of good labour-management relations."*

Bill C-77 definitely tipped the scales in favour of the employer with respect to the work conditions imposed as a result. However, the mediation process established by Bill C-77 at the very least allowed for consideration of the employees interested with regard to the concessions imposed as a result.

However, as you know recent back to work legislation imposed during the 41<sup>st</sup> Parliament include the "Final Offer Selection" provision, Bills C-5 (2011/06/25), C-6 (2011/06/16), and C-33 (2012/03/15) respectively. Specifically, I am concerned that the "Final Offer Selection" process with the inclusion of pension issues introduced at the bargaining table by my employer will result in an unjust outcome in this matter. The circumstances of this dispute do not justify or warrant the employers' pension demands being addressed through the back-work-legislation being considered by the government.

CP Rail management claims that it must have pension parity with the Pension Benefits provided to running trades employees at Canadian National Railway. However, this demand ignores that the pension benefits provided to these different employees have evolved through very separate and distinct bargaining environments. For example, while employees at CP have opted to forego percentage wage increases to achieve improvements in pension benefits, employees at CN have not taken similar actions

to gain pension improvements, this difference has provided CN employees the ability to direct a greater portion of their annual income toward personal retirement savings. To discriminate against CP employees on the basis that they opted to direct greater portion of their wages toward their company pension plan rather than personal income is not justified. Nor does the so-called parity argument take into account specific pension and work condition concessions made by CP employees during previous rounds of bargaining as a means of maintaining monetary Pension entitlement.

The railways' demand for major pension concessions originated with former CEO Fred Green. The management team led by Mr. Green claimed that these changes were necessary because of recent deficits experienced by the fund.

However, in 2009 Mr. Green admitted to employees at a town hall that the plan would be fully funded had the Company pursued a more conservative approach to managing the fund. Mr. Green stated that the company had reviewed an alternative to the risky investment strategy that has resulted in a \$1.6 billion deficit. Mr. Green advised that had the Company invested the Pension Fund exclusively in instruments such as GIC's and government bonds combined with an annual infusion of approximately \$35 million a year during the past 15 years the fund would be deficit free. Instead the course pursued by CP management including CEO Green has resulted in successive pension fund deficit repayments totaling \$1.6 billion during the past 5 years, a total cost per employee of approximately \$107,000 or \$21,000 annually during this 5 year period. The more conservative alternative investment strategy considered by the company would have cost only \$2,300 annually over the 15 year period, a far more desirable outcome for all parties and one that would negate the current pension concession demands.

As you are no doubt aware CP shareholders recently forced the resignation of CEO Green and caused significant change to the Board of Directors. As reported in the media there were concerns about the ability of senior management at CP. Given Mr. Green's admission that a different pension investment strategy would have result in a more favorable outcome makes it unreasonable to suggest employees should be left paying the price for the poor pension investment decisions made by senior management.

If we as employees are forced to pay the price for the poor management decisions made by the former management this injustice will be underscored the \$18 million severance package available to CEO Fred Green (Source: ISS Proxy Advisory Services Canada - Publication Date 3 May 2012). It is ridiculous in the extreme that the CEO responsible for creating this pension deficit is so handsomely rewarded while employees are called upon to accept up to a 40% reduction in their pension benefits to pay the price for this mismanagement. Yet this is precisely the outcome that will be achieved if the government imposes the same legislation on TCRC members that it threatened to impose on Air Canada employees.

CP Rail is not a Company in jeopardy as a result of its' pension funding obligations, in fact CP is a profitable company to no small degree on the contribution of its' employees. During the past 10 years employees have agreed to extended runs, improved work attendance in excess of 80%, and to reduced arbitrary payments for employees.

Many of the employees who would be affected by the pension demands made by our employer stand to have the pensions they have worked many years to achieve dramatically reduced, some employees of these potentially affected employees have worked for CP for 30 plus years. As a running trade employee I work long hours which frequently occupies 60 or more hours a week away from home working in this heavily regulated environment. The nature of my employment requires me to base my work attendance on 2 hours notice to work, this places considerable demands on lifestyle and families. The existing

negotiated pension benefits is one of the primary reasons that I have remained a committed CP railway employee.

For all the reasons detailed in this letter I respectfully ask that you urge the government to specifically exclude the employers' excessive pension demands from any back to work legislation the government intends to introduce.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Les Daley', enclosed within a faint, light-colored oval border.

Les Daley  
CP Rail Employee

cc: Honourable Lisa Raitt, Minister of Labour  
Honourable Alexandre Boulerice MP, NDP Labour Critic  
Honourable Rodger Cuzner MP, Liberal Labour Critic

