



The Highball

Official Publication of
Railroad Workers United

Workers at CN in Canada Win Big Contract Victory Around Safety Issues



Workers at Canadian National picket in Canada while on strike late last year. After a one week strike - in which the federal government refused to intervene - the union brought the carrier to its knees and back to the bargaining table. At root a dispute over safety concerns, the workers won a resounding victory, the union's members voting overwhelmingly in favor of the agreement.

After a weeklong strike by thousands of trainmen at Canadian National (CN) across Canada, the workers returned to work in late November last year after their union - the Teamster Canada Rail Conference (TCRC) - reached a tentative agreement with the carrier. On January 30th, 2020, the results of the rank & file ballot were made public. The 3200 workers overwhelmingly ratified the new contract, with 91.3% voting in favor.

According to the union, the contract "focuses primarily on safety, specifically with regards to crew fatigue and hours of work." Recent years have witnessed a chronic crew shortage on CN in Canada, as train crews have been expected to take up the slack generated by the operating system known as Precision Scheduled Railroading (PSR), that reduces available crews, locomotives and other assets in an effort to reduce operating costs and boost stock prices.

"We've succeeded in getting CN to adjust some of its practices in the interests of safety. But the core problem of fatigue in the rail industry can only be resolved through government regulations," stated the president of the TCRC, Lyndon Isaak. "The issue of fatigue is still far from resolved."

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Locomotive Engineer in Amtrak #501 Wreck Sues the Rail Carrier

The Amtrak engineer at the throttle of Train #501 when it derailed on a curve near Tacoma, WA on December 18th, 2017, has filed a personal injury lawsuit against the company. The suit claims that the carrier failed to properly train the engineer, Steven Brown, in the operation of the locomotive and did not provide adequate "qualification" on the train's new routing, known as the "Fort Defiance Bypass."

In addition, the suit also claims that Amtrak failed to install Positive Train Control (PTC), which allowed the train to exceed the speed limit by nearly 50 MPH as the train entered a sharp curve. The train had 77 passengers, five Amtrak crewmembers and a technician from the train's manufacturer on board. Three passengers died and 57 others were injured.

According to the National Transportation Safety Board (NTSB) official investigation, the train's speed was 78 mph at the time it left the tracks in a curve rated at just 30. But the NTSB concluded that Brown wasn't familiar enough with the new Siemens built *Charger* type locomotive he was operating that day, nor with the new Point Defiance bypass route "physical characteristics."

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The lead locomotive on Train #501 rests in the aftermath of the derailment of Train #501 on December 18th, 2017 in DuPont, WA. The NTSB found that the "engineer was set up to fail," by a combination of factors largely beyond his control. But the question remains—as in all train wrecks—why did the rail carrier engage in such irresponsible and reckless behavior?



Crew Consist News

Judge Rules for Carriers, Unions Appeal, Workers Prepare for Showdown

As expected, a Texas judge - Mark T. Pittman - recently appointed by President Donald Trump, issued a ruling on February 11th that compels SMART-TD to begin good-faith negotiating over crew size proposals. The union had been contending that crew consist was not an appropriate subject for bargaining at the national level. As expected, the union has appealed the ruling to the 5th Circuit Court of Appeals in New Orleans.

Meantime, the battle over crew consist proceeds apace at the legislative level nationally, as well as and among the states. At least 7 states now have two person crew bills on the books, As this issue of *The Highball* goes to press, it appears that Washington state will join that group any day now. States where similar legislation is currently pending include Virginia, Wyoming, and New York.

While the *Safe Freight Act* now has well over 100 co-sponsors in

the U.S. House of Representatives and a number of co-sponsors in the Senate, including Presidential hopeful Bernie Sanders, it is unlikely to move forward until after the fall elections, if then.

Meantime, bargaining at the national level for a new master freight agreement commenced in February, with the dozen or more unions bargaining with a few dozen rail carriers, including most of the Class One railroads. The carriers bargain as a group under the auspices of the National Carriers Conference Committee (NCCC), while most - but not all - of the unions are bargaining as a group called the Coordinated Bargaining Coalition (CBC).

The CBC is a step in the right direction for the rail unions, especially those of the operating crafts who are now bargaining together in two consecutive rounds. Railroad Workers United has long maintained that unity of the operating crafts is imperative if we hope to save the two-person train crew, and that unity of all rail labor is ultimately essential if we ever hope to win anything else (See *The Highball*, Winter 2020).

Regardless, rank & file railroad workers cannot sit idly by and watch from the sidelines in any circumstances. History teaches us that we cannot rely on regulatory agencies, judges and courts, politicians or even union officials to win the day. It is time for railroad workers to get actively involved in the process. Attend your union meetings, assume a role in the local, keep up with events as they unfold, and speak out.

In 2014, the rank & file sent a strong message to the rail carriers with a resounding NO to single person train crews at BNSF, voting 5-to-1 against an agreement that would have authorized the practice. We can win again, but this time it may take more than just a contract vote. The carriers are stronger, more determined than ever to force this down our throats. We have the power to stop them, but we must prepare for the fight and get organized now!

Get Your Two-Person Crew Yard Sign!

PROTECT YOUR FAMILY

**Say No To
One-Person
Train Crews**

PROTECT YOUR COMMUNITY

Order
Yours
Today!

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for more
info

Railroad Workers United

Railroad Workers United was organized in April 2008 at a Founding Convention in Dearborn, MI. RWU grew out of decades of struggle within the craft unions for unity, solidarity, and democracy. We are carrying on a tradition of rank & file activity which dates back to the 1890s and the time of Eugene V. Debs.

RWU is a cross-craft inter-union caucus of rail labor activists across North America. All rail workers of all crafts from all carriers who support our Statement of Principles are welcome to join in our efforts. Please write, call, or email. See the contact information below.

Statement of Principles

- Unity of All Rail Crafts*
- An End to Inter-Union Conflict*
- Rank-and-File Democracy*
- Membership Participation & Action*
- Solidarity Among All Railroaders*
- No to Concessionary Bargaining*

International Steering Committee

- Chuck Corsini, SMART #587, UP, Chicago, IL
- Jason Doering, SMART #1117, UP, Las Vegas, NV
- Ross Grooters, BLET #778, UP, Des Moines, IA
- Adam Haslag, IBEW # 1832, UP, Kansas City, MO
- Ron Kaminkow, BLET #51, Amtrak, Reno, NV
- Ryan McEldowney, SMART #867, UP, Des Moines, IA
- Mark Moylan, BRC #6030, CN, Twin Harbors, MN
- Joe Mulligan, BLET #57, Keolis, Boston, MA
- Hugh Sawyer, BLET #316, NS, Atlanta, GA
- James Wallace, BLET #621, BNSF, Lincoln, NE
- Andrew Weir, TCRC-LE #240, CN, Sarnia, ON

Trustees

- Jon Flanders, IAM #1145, CSX, Selkirk, NY
- Ed Michael, BLET #724/UTU #979, UP, Salem, IL
- Chet Whyers, UTU #979, UP, Salem, IL

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Railroad Safety

On the Anniversary of Deadly Runaway Train, Accusation of a CP Cover-up

On February 4th, 2019, Canadian Pacific Train #301 rolled away down "Field Hill" in the Rocky Mountains of British Columbia, Canada. The train's lead locomotive, mid-train DPU and 99 cars of grain derailed, killing all three crew members aboard. As the anniversary of that tragic wreck approached this past winter, family members, co-workers and the general public were demanding answers. The Canadian news media has been awash with the news of the wreck, and evidence seems to point to a cover-up by the railroad. Charges of negligence on the part of Canadian Pacific (CP) are coming forward.

Following six months of investigative reporting, the Canadian Broadcasting Corporation (CBC) released its finding on nationwide television Sunday evening, January 26th, when the award-winning news program "The Fifth Estate" aired the 22-minute episode. Watched by Canadians coast-to-coast, the segment suggested that the rail carrier might possibly be attempting to prevent additional information about the nature of the wreck from being disclosed.

Following allegations of a cover-up on the part of the Canadian Pacific Police Service (CPPS) in relation to the derailment, the Teamster Canada Rail Conference (TCRC) union has begun calling for an independent investigation into the deadly disaster. The union is also reiterating its call for the federal government to abolish corporate police forces such as CPPS. The union believes that this is a blatant case of the "fox guarding the hen house."

The lead safety investigator looking into the fatal runaway crash of the freight train says the Royal Canadian Mounted Police (RCMP) should step in to investigate potential negligence by the railway company. "I was ordered to stop investigating," claimed Mark Tataryn of the CP Police Service, saying his superiors prevented him from obtaining key witness accounts. "I would say it was some type of cover-up." Tataryn went on to state, "I believe it's an injustice. I do believe that there was corporate influence to sway the aspect of the investigation in some capacity."

Meantime, unanswered questions of what exactly led to the crash of CP Rail Train #301 remain, leaving the victims' family members angry, frustrated and suspicious of Canadian Pacific. "I hold CPR responsible. They killed those guys," says Pam Fraser, mother of Dylan Paradis, the 33-year-old conductor killed in the crash. "Their practices, their safety standards, their bottom line, to keep the trains rolling no matter what, killed my son and his crew mates. I want to hold them responsible."

During the course of the investigation, the CBC would discover that in the past 25 years, there have been 25 runaway trains on Field Hill. Ironically, the latest runaway came within a few days of the anniversary of the 2019 wreck, when a single carload ran away from the yard, travelling five miles or so down the main. Together with the devastating runaway at Lac-Mégantic, Quebec in 2013, which levelled the downtown in a devastating explosion that killed 47 people, Canada has been experiencing a dramatic increase in such runaway trains in recent years.

As RWU has reported, such common sense means of train securement on steep grades — including the application of the automatic brake and the use of handbrakes - have not been mandatory by law or rule. Had they been, it is likely that most, if not all, of these wrecks could have easily been avoided. It is interesting to note that within weeks of the Field runaway, Transport Canada did issue an emergency order mandating that all trains stopped on steep slopes must have handbrakes tied on a



More than a year has now elapsed since the tragic wreck of CP Train #301, the train that suffered a runaway in the Canadian Rockies, killing all three crew members aboard. The union along with family members, government officials and police officers, believe that the rail carrier has been engaged in a cover up in order to protect itself from incriminating evidence of any further liability in the crash.

sufficient number of cars to hold the train, in order to prevent such a reoccurrence. In a dramatic display of arrogance and disregard for human life and safe train operations, both CP and CN appealed the agency's ruling within weeks.

It remains to be seen just what the outcome will be. But no matter what is unearthed by any further investigation, one thing remains clear: multiple devastating train wrecks in Canada in recent years could very easily have been avoided with the simple application of basic railroading safety procedures, but the rail carriers have stubbornly refused to implement them.

Another River Rescue in KY



Two CSX crew members were briefly trapped in the cab of the lead locomotive after an ethanol train derailed in Kentucky on February 13th, plunging into the Big Sandy River and exploding. Fire fighters were able to rescue them by boat. They were taken to the hospital and treated for minor injuries. This wreck comes on the heels of a New Year's Eve wreck six weeks earlier in Idaho, when a BNSF train derailed and careened into the Kootenai River, where the crew was miraculously unhurt and rescued in a similar fashion. Both crashes were the result of rock and mudslides that went undetected.



RWU Co-Chair Speaks Out on Elections

Why Bernie Sanders is the Right Choice for Rail Workers; Workers in General

After the recent Texas district court ruling by recent Trump appointee Mark T. Pittman on crew staffing (see article on Page 2), we all know what is coming. As railroad workers we are facing difficult battles ahead. In order to be victorious, we will need to achieve the greatest possible rank and file solidarity, and to work alongside of allies in positions of power who are making the decisions which affect our workplace.

No potential ally has more power to affect our workplace than the President of the United States. From Judicial appointments like the one to the Texas court which dismantled the SMART-TD collective bargaining agreement, to appointments to the Federal Railroad Administration (FRA), the National Labor Relations Board (NLRB), the National Mediation Board (NMB), as well as appointments to any Presidential Emergency Board (PEB) in the event of a national rail strike, the President has great ability to favorably or unfavorably impact rail labor. And as we saw with the recent CN Strike in Canada, the political leader of a nation can assist in labor victories simply by not exercising his/her authority to order railroad workers back to work.

The outcome of the 2020 elections in this country will have a major impact on our upcoming rail labor contacts. From picket lines to union halls, only one candidate has consistently stood with workers for decades now. Senator Bernie Sanders' *Workplace Democracy Plan* promises to "make it easier, not harder, for millions of Americans to join unions and collectively bargain for better wages and benefits." The highlights of this plan include increasing union density, establishing federal protections for workers, eliminating so called "right to work for less" laws, and including workers on corporate decision-making boards.

Not one to simply talk the talk, his own campaign for President is the first in U.S. history to have an organized workforce and a collective bargaining agreement. Sanders has had a 40-year commitment to fair trade deals which protect workers, and he has a near perfect voting record on support for workers' issues, according to the AFL-CIO and most unions in the country.

But what most excites me about Senator Bernie Sanders, as a railroad worker, is his commitment to not only defending Labor in our industry, but his understanding that railroad infrastructure is critical to our national economy. In my home state of Iowa, where Bernie won an overwhelming majority of the popular vote in the recent caucus, one of his campaign Co-Chairs was former BLET locomotive engineer and current State Legislator Jeff Kurtz. Brother Kurtz, an RWU member, was able to have many conversations with the Sanders' Campaign about issues we are facing on the railroad. Subsequent to those conversations, the Sanders campaign announced a proposal for a robust program to transform our energy production, infrastructure, and transportation to promote the creation of jobs that preserve the planet and benefit railroad, transit, and other industrial workers.

Representing railroad workers, as Co-chair of Railroad Workers United, the Sanders campaign asked me to join a panel of speakers in November. This event highlighted the merits of Bernie's Green New Deal plan. Highlights in the plan include over \$600 billion investment in regional rail that will create more than 700,000 good paying union jobs, jobs which would pay into railroad retirement. In addition to the rail investment, this plan dedicates another \$2 trillion in order to repair infrastructure, and another \$500 billion plus in modernizing the electrical grid. The best part is that the economic benefit of these plans out-



In response to his decades of support for workers and their unions, working class citizens across the U.S. are casting their ballots in the Democratic primary for Vermont Senator Bernie Sanders. Above, rail workers who are members of SMART—Transportation Division gather in Keokuk, IA last year to welcome Bernie Sanders, who took the opportunity to speak out in favor of two-person train crew legislation.

weighs their costs.

In addition to speaking on behalf of Senator Sanders plan, I was able to speak to the fact that freight rail is three times more fuel efficient than trucking and would reduce roadway congestion. I was also able to address issues affecting rail labor such as Precision Scheduled Railroading (PSR). His campaign has facilitated a platform for our issues, as rail workers, that has now reached hundreds of thousands of people.

No other campaign for President has demonstrated such a commitment to railroad workers - and to all workers - than has the Sanders campaign. No other candidate running for the highest office in the land stands to benefit railroad workers in our struggle to preserve and expand jobs, to win a better contract, better wages, benefits, and safer working conditions. In our lifetimes, union workers - and by extension railroad workers and all working people - have not witnessed an opportunity like the one now before us in the 2020 election for U.S. President. I'm pledging to do everything in my power to elect Bernie Sanders as the 46th President of the United States. I hope you will too!

Brother Ross has more than 17 years as a railroad worker, and currently works in Marshalltown, IA as a locomotive engineer. This is his second term as Railroad Workers United Co-Chair. He is a member of the BLET #778 in Des Moines, IA and serves his local as the Legislative Representative to the BLET Iowa State Legislative Board. As a railroad worker, he follows in the footsteps of his grandfather who was employed as a Missouri Pacific car repair worker in Omaha, NE. Ross currently serves on the City Council of Pleasant Hill, IA. Serving as a Bernie Sanders campaign surrogate in Iowa, Ross spoke before crowds of thousands on issues of concern to railroad workers.





Railroad Workers and the Coronavirus

FRA Grants "Relief" for Rail Carriers; Hell for Rail Workers

On March 26th, 2020, in response to a Petition from the Association of American Railroads (AAR), American Short Line and Regional Railroad Association (ASLRRRA) and American Public Transportation Association (APTA), the Federal Railroad Administration (FRA) has issued a 60-day emergency waiver for certain requirements of the FRA's rail safety regulations, due to the COVID-19 pandemic. The petitioners, on behalf of their member railroads, requested relief from certain requirements of the Code of Federal Regulations (49 CFR Parts 213, 214, 217, 218, 219, 220, 228, 229, 232, 234, 236, 239, 240, and 242) on March 21st. The "relief" granted 4 days later by the FRA applies to ALL rail companies in the United States, whether they were party to the request or not.

The relief granted is supposedly conditioned on the existence of personnel shortages and other "constraints", that can be shown as having a direct correlation to the effects of the COVID-19 pandemic, that might prevent a rail carrier from "timely" completing federally mandated railroad safety inspections, tests, and/or other requirements

Many of the rules/regulations that railroaders have worked under - in many cases for decades if not their entire careers - will potentially no longer be enforced between now and late May (if not longer). Rail workers must now be at the ready, to be ordered to perform any one of a number of unsafe tasks, that yesterday would've been a violation of federal law, yet today, failure to carry them out could result in termination. In recent weeks, rail workers have been put in a "damned-if-you-do, damned-if-you-don't" situation in recent weeks with regards to marking off sick. Now, these same workers are similarly placed in a precarious situation, being ordered to "violate" sacred rules and regulations upon threat of termination (insubordination) on the one hand, or proceed as directed to do something they know is intrinsically unsafe that could result in disaster.

Meantime, the FRA has to date refused to respond in such a fashion to the rail unions' (Brotherhood of Locomotive Engineers

& Trainmen and the SMART-Transportation Division) petition of March 24th, ignoring their pleas to - among other things - recall to service some of the thousands who have been laid off in recent months. Yet, while they remain in furlough status as the direct result of the rail carriers' new operating plan - Precision Scheduled Railroad (PSR) - the railroads are clamoring about "labor shortages" and have been granted relief by the FRA. In fact, RWU has received reports of new furloughs initiated literally on the day that the FRA Waiver was announced!

If ever there was an "All hands-on deck!" moment for railroad workers, this is it. We cannot sit back and allow the carriers and the government make us pay the price for their criminal lack of foresight and preparation in the face of this oncoming pandemic. There have been reports of health care workers on the front lines that have already paid the price with their health and lives, due to lack of basic PPE, which should have been ordered in massive quantities in February. Similarly, furloughed railroad workers could have and should have been reintegrated back into the industry in that same time frame. There is still time, of course, to do this, yet as *The Highball* goes to press, the railroad continues to furlough rail workers!

The rate of derailments, railroad worker fatalities, accidents and injuries was unacceptable before this FRA waiver went into effect. The proceeding years of PSR - while providing a massive drop in rail employment - concurrently produced a rise in the rate of accidents, injuries and fatalities. With the rail carriers now cut loose this spring to abrogate dozens, if not hundreds, of regulations in the name of "personnel shortages," one shudders to think of the potential consequences. RWU demands that every politician forcefully denounce this charade for what it is, and demand that the Class One carriers recall to service their furloughed employees, rather than unnecessarily compromise the safety of rail workers and the public.

We call upon the rail union leadership to heed this desperate call for solidarity, unity and action. The carriers have betrayed both rail workers and the nation, putting their operating ratio ahead of the health and well-being of both their employees and the general public. We need to educate ourselves, each other, and our allies on the real-time implications and applications of this dire situation. We need to organize ourselves into a powerful force of resistance. Could it be time to consider all options on the table, regardless of whether they fit neatly into the carriers' and the government's proscribed terms of engagement? The unions have the resources, financial and otherwise to draw attention to this travesty, and bring rail labor together. And we have a dedicated army of rank & file activists ready, willing, and able to be mobilized.



A crew boards a Union Pacific train in California. While thousands of train & engine service workers remain furloughed across the nation - the result of "Precision Scheduled Railroad" - the rail industry pleads for relief to ignore vital safety rules due to a manpower "shortage." On March 26th, the Feds granted the industry request to throw out certain sections of 14 Parts of the Federal Code.



Railroad Workers and the Coronavirus

Coronavirus Shines Spotlight on Rail Carriers' Archaic Policies

In recent decades, the big rail carriers have promulgated harsher and more draconian attendance policies that their employees must live and work under. Railroad workers are subject to severe discipline up to and including termination should they dare – under most any circumstances – to violate such policies. But this is just the tip of the iceberg. To add insult to injury, the rail carriers have concluded that – contrary to labor law – the subject of such policies is not a mandatory subject of collective bargaining, something legally to be negotiated with the workers' unions. And to top it all off, when workers in Train & Engine (T&E) service and other crafts "mark off," they do not even get paid, since most T&E workers in the U.S. receive absolutely NO paid sick leave!

Enter the Coronavirus. With the pandemic spreading by leaps and bounds across the continent, much less the entire planet, government agencies and private employers alike have been drawn into the fray, with authorities at all levels making pronouncement and issuing proclamations. However, when it comes to the railroad industry, it seems that the response of the major rail carriers and the regulatory agency – the Federal Railroad Administration (FRA) – misses the mark. The FRA has taken what it calls an "all-government" approach to the crisis, effectively a "hands off" attitude, issuing not a single guideline or regulation for the industry. On March 14th, Administrator Ron Batory did issue a "Declaration of Emergency Situation", but this edict appears to allow the rail carriers to appeal for a relaxation of rules under which it must operate. As for the carriers, all have issued guidelines and expectations for employee conduct in the face of the crisis. But in most cases, their edicts appear more concerned with protecting their operating ratio, displaying a complete disregard for not only their own employees' health and well-being, but for that of the entire nation.

At the nation's third largest railroad, CSX, workers are getting mixed messages from the carrier. "At CSX, our top priority is the safety of our employees, their families and the communities where we operate," said Sheriee Bowman, a public relations manager at CSX. "The company is closely monitoring the spread of the novel coronavirus COVID-19 disease and have taken preventative measures to safeguard our people and operations."

The systemwide policy released by the carrier the second week of March states that if infected, employees are to stay out of work and seems to suggest that failure to go home and stay home could result in discipline. "Violations of this policy are taken seriously and will be addressed pursuant to CSX's discipline policies and practices," the guidance reads. "If you violate this policy, you may be subject to discipline, including discharge." Yet simultaneously, Bryan Tucker, Vice President of Corporate Communications, stated: "There aren't any changes to the attendance policy. We expect people to follow the normal protocol." (Note that in recent years, numerous employees have sued CSX, accusing the carrier of violating their rights to take time off work due to medical issues as provided for under the Family & Medical Leave Act (FMLA).

This "steer the course" attitude is all too prevalent on the nation's railroads. To effectively combat the pandemic, a few simple measures would go a long way to contain the spread of Coronavirus:

- Temperature testing of employees who arrive at work with an elevated temperature, with employees sent home as necessary.

- Paid time off – for a two-week minimum period - for those workers who have been diagnosed with Coronavirus or have been quarantined.
- Recall to service countless furloughed employees as is necessary, to provide adequate and proper staffing until the crisis over.
- Ensure that hand washing facilities, sanitizer and disinfectant wipes are readily available and conveniently located throughout the workplace.
- Properly cleansing and disinfecting of all shared workstations, including locomotive cabs and restrooms.

Given its nature, the rail industry has the potential to facilitate the spread of the disease to all parts of the continent. It is one of the wealthiest in the U.S and Canada, with the means to easily undertake the actions listed above to safeguard its workers and the nation. Failure to do so represents a betrayal of not just those workers, but a failure to live up to the responsibility granted to it by society. It is a sad day when Kentucky Fried Chicken initiates necessary measures when the rail industry refuses to.

Coronavirus and the Rail Unions

In recent weeks the rail unions have begun to issue more urgent demands, insisting that the rail industry take action. These demands come in light of the carriers' failure to do the right thing and take the necessary measures to mitigate against the spread of the coronavirus (see article above).

In times of crisis, different interest groups attempt to take advantage of the situation to further their own ends. The current situation with the virus pandemic is no exception. In the coming weeks, look to the rail industry to exploit this crisis to claim "crew shortages", to push for single person crews, to violate the hours-of-service law, and to otherwise push their agenda.

Likewise, the rail unions need to use this opportunity to push OUR agenda, including, but not limited to:

- A healthy & safe railroad, properly cleansed and sanitized.
- An end to archaic availability policies that put our members and their families in harms way;
- Paid sick leave for all rail workers so we do not have to choose between coming to work sick and spreading disease, or staying at home, not getting paid and risk getting disciplined or even fired.
- Adequate and proper staffing levels to get the job done safely and in a healthy environment, free of chronic fatigue.

Surely these are goals and objectives that *all* rail workers and *all* rail unions can support and organize around. It is time to come together for the common good. The crisis presents a golden opportunity for all of rail labor to put aside past differences and to unite. Never has the labor slogan rung more true: "An injury to one is an injury to all!"



Railroad Workers and the Coronavirus

The FRA Waiver: Just What It Means for Railroad Workers and Safety

Three railroad industry groups filed an emergency request to the Federal Railroad Administration (FRA) that would allow them to use the Coronavirus (COVID-19) crisis as a pretext to eliminate their required compliance with long held safety regulations. These regulations govern the inspection and repair of railroad tracks and associated infrastructure, train operations, safety protocols and employee training and certification.

This “Emergency request” by the industry to the leading Federal railroad safety body has already been approved in a knee jerk reaction by the FRA. While the request at no time states that any shortage of employees exists, the emergency relief has been made effective immediately. The railroads state that they “expect their staffing levels to be significantly reduced as fewer employees and contractors are available to perform necessary duties.”

Railroad Workers United (RWU) asks, “Given the dramatic efforts the railroads have undertaken during recent years to eliminate as many jobs as possible and in the face of other layoffs implemented during the past few weeks, why is their solution to an imminent labor shortage to abandon safety? Wouldn’t it be prudent and wise to immediately begin the recall of the thousands of railroad workers that have been so aggressively cut from the rolls of active and productive employment?”

Instead the railroads have sought and obtained the Federal government’s permission to abandon core components of recognized safety protocols - rules and regulation that were written in blood. Abandoning these rules will only result in endangering railroaders, passengers and the communities railroads serve.

So, what specifically are the safety critical areas that will be bypassed in the name of preserving corporate profits under the pretext of preserving essential services?

- Relief from regular interval inspection of railroad tracks.
- Field testing and evaluation of employees to ensure safety compliance.
- Eliminating work guidelines for some “Utility” workers that were created to reduce the risk of injury.
- Relief from complying with Federal regulations governing the certification and recertification programs for Conductors and Engineers.
- Relief from the requirement that locomotive engineers and conductors are fully “qualified”; that is, tested and certified to be familiar with the physical characteristics of the railroad line they are operating on.
- Minimizing the requirements of passing critical information forward at the conclusion of employee shifts.
- Eliminating the requirement to inspect locomotives prior to their movement.
- Allowing the movement of defective equipment to alternate locations .
- Reducing the requirement of a train departing its initial terminal from having 100% operable brakes down to a requirement of 95% operable brakes.
- Elimination of enroute inspections and brake tests for trains that travel over 1,200 and 2,000 miles.
- Increasing the length of time a train can have its air brakes off a source of air that enables the train to be secured properly and the continuity of its air and braking capabilities ensured.



Maintenance-of-Way workers inspect a bridge in 2015. The crafts hardest hit by furloughs and layoffs in the last few years have been in maintenance and transportation. While thousands of car inspectors, track and signal maintainers, trainmen and engineers stand idle, the railroad industry appeals to the federal government for relief from adherence to certain safety rules due to manpower “shortages.” Rail unions are up in arms over these patently false and misleading claims that threaten national rail safety.

- Elimination of the requirement for brake tests on trains traveling less than twenty miles.
 - A general reduction in the required frequencies of railroad infrastructure inspections, including highway-rail grade crossing signals, air supply and testing sources.
 - Relief from regulations governing the “Hours of Service” of employees that operate trains.
- These changes would effect not only freight, but also Intercity and commuter train operations.
- These changes were proposed and allowed without any input from any members of the rail labor community, rail passenger advocacy groups, or any community that sees the passage of trains across our national network.
- These changes have the potential to create a “perfect storm” of factors that combined, could cause cataclysmic events to communities, employees, and passengers.
- While we recognize the very real threats that the Coronavirus pandemic presents to our nation, RWU believes the solution is NOT to compromise safety and in doing so, create a clear and present danger. The solution should be to recall already displaced workers that stand ready to step in using their existing qualifications, certifications and knowledge to contribute to keeping our nation’s rail network operating smoothly and efficiently.
- Simply evaluating these changes raises serious concerns among the people that move America by rail. Recalling to active duty more than 15,000 workers who have been axed from employment last year by big railroad “Right Sizing” can be part of the solution as we face this crisis together.



Railroad Workers and the Coronavirus

RWU Resolution on Coronavirus and the Railroad

Whereas, the peoples of the world are threatened by the Coronavirus (COVID-19) pandemic; and

Whereas, the U.S. Centers for Disease Control, the Canadian Public Health Agency, the World Health Organization, and government officials around the world all agree that the best way to slow and stop the spread of this and other diseases is social distancing and quarantine; and

Whereas, many railroad workers labor in close proximity to one another, and handle shared tools and equipment; and

Whereas, many railroad workers are subject to chronic fatigue, laboring long hours often outdoors in all kinds of weather, lacking set work schedules, often expected to be on-call and ready to go to work at any and all hours of the day and night, 365 days a year; and

Whereas, thousands of railroad workers move millions of Americans across a vast network of intercity and commuter trains, facing a high risk of exposure to illness and disease on a daily basis; and

Whereas, in recent years, the major rail carriers have unilaterally imposed draconian attendance policies that restrict workers from taking needed time off of work; and

Whereas many railroad workers – including most engineers and conductors on the major railroad systems in the U.S. - have no paid sick leave; and

Whereas, even many large anti-union employers and numerous large high profile major corporations in the U.S with a history of poor employee wages and benefits – including Walmart, Starbucks, Target, and Kentucky Fried Chicken - have announced measures to assist in the containment of the virus, by allowing employees excused time off with pay for two weeks and often longer; and

Whereas, the Class One rail carriers have been making confusing and contradictory statements to their employees, demanding that “sick” employees stay at home upon threat of discipline, while offering no testing, no paid time off, and no relaxation of their harsh attendance policies;

Therefore, Be it Resolved, that Railroad Workers United demands that in the interest of workers’ health and safety, the travelling public, and the health and well-being of the nation that the rail carriers undertake immediate measures that truly combat the pandemic, including, but not limited to:

- Temperature testing and screening of employees when arriving at work, with employees sent home as necessary.
- Allowing paid time off – for a two-week minimum period - for workers infected and/or workers who have immediate family members who are stricken with the virus.
- Recalling to service currently furloughed employees to provide adequate and proper staffing until the crisis over.
- Ensuring that hand washing facilities and sanitizer, together with disinfectant wipes are readily available and conveniently located throughout the workplace.
- Properly cleaning and sanitizing all workspaces, including offices, crew rooms, company and contracted vehicles, locomotive cabs and toilets, and away-from-home lodging facilities.
- Posting signage throughout the workplace on the importance of hand washing and cleanliness to stopping the spread of the disease.

And be it Further Resolved that Railroad Workers United demands that the Federal Railroad Administration enforce these common sense, easily applied, and inexpensive measures to keep American railroad workers, our families, and our communities safe during this crisis; and

Be it finally Resolved that RWU opposes any attempt by the rail carriers to use the “emergency” granted by the Federal Railroad Administration (FRA) in order to bypass safety considerations or to avoid the enactment of the measures outlined above.

Adopted by the RWU Steering Committee 3/19/20



Contracts & Bargaining

Workers at CN in Canada Win Big Contract Victory Around Safety Issues

Continued from Page 1

According to the TCRC website, "During bargaining, the company sought to strip the collective agreement of its rest provisions while increasing the workload on conductors. The union prevented this from occurring. The company has agreed to a number of changes relating to workplace safety. Of critical interest are the improvements made to provisions covering rest and fatigue."

Of critical importance to the workers is the right to "book rest" and be relieved if they so desire at the 10-hour limit proscribed by the contract. Up to now, CN routinely ordered the crews to continue to work and file a complaint (grievance) later. This of course did nothing to provide the crew with the much needed rest at the moment they were actually fatigued. The workers and the union demanded this right as an invaluable safety feature of the agreement. Under the new contract, the company may no longer abridge this right and may no longer restrict the workers from seeking relief after 10 hours, and may no longer compel them to continue working.

The agreement clarifies that shifts will now start and end at a specific location (e.g. the employee's locker) in order to clarify when workers are actually on paid time. Previously, CN would include time in transit to such a location as "off-duty time," often significantly reducing the amount of time available to a worker for rest. Trips to the locker facility can sometimes take hours. Given that Canadian federal work/rest rules mandate as little 6 to 8 hours off-duty time between shifts, the previously arbitrary nature of an "on/off-duty point" could dramatically contribute to worker fatigue and the creation of an unsafe working environment for the crews.

In addition to the safety provisions outlined above, the agreement includes an industry-standard 8% wage increase over the course of the 3-year agreement (2.5% / 2.5% / 3%), retroactive to July 23, 2019. The health and welfare plan also saw a series of improvements, and the workers also are to receive a \$1000 signing bonus. The new collective agreement will expire in July of 2022.

Fortunately, the workers had broad public support for the strike, despite hardship and inconvenience. CN - like U.S. rail carriers - has not endeared itself to the public nor shippers in recent years. Nor have the other rail carriers. A dramatic runaway train wreck on rival carrier Canadian Pacific last year (See Article Page 3) is just one recent example of where Canadian rail carriers appear lax on safety. In addition, nearly a dozen rail workers in Canada have been killed in the last three years, a far greater number than would have been expected. And the country is still reeling from the biggest train wreck disaster in modern Canadian history in 2013, when a runaway oil train, that had been staffed by a single person crew, derailed, exploded, and largely destroyed the town of Lac-Mégantic, Quebec, killing 47 people.

So a nationwide strike that centered around rail safety for the crew members aboard trains was able to win a lot of sympathy from the general public. Perhaps sensing this broad support, Canadian Prime Minister Justin Trudeau broke with past tradition and refused to take action to break the strike. Allowed to chart their own destiny, the workers maintained their strike solidly for a full week - and most likely would have stayed out far longer if necessary - knowing that they were set free and at liberty to confront the company without outside interference.



Locomotive Engineer of Amtrak Train #501 Sues the Carrier

Continued from Page 1

Apparently, engineers and conductors had been "batch" qualified, with up to 5 or more in the cab of the locomotive, while conductors rode in the rear looking backwards. Neither are typical nor acceptable means of qualifying train and engine personnel. As the NTSB Chair Robert Sumwalt stated, "The engineer was set up to fail."

Train & Engine crews across the country are outraged that such blatantly shoddy "qualifying" was undertaken by the carrier. At the first of a series of civil trials of passengers and surviving family members of the deceased, Amtrak assumed full responsibility. "We're here because Amtrak was negligent," the carrier's attorney Mark Landman told the jury in his opening statement at the federal courthouse in Tacoma, Washington, last year. "It never should have happened."

Landman's statement of course begs the question, why the hell did it happen? There is a lot of speculation as to why service on the new line was seemingly rushed. Certain funds were supposedly in jeopardy had the service not commenced by year's end.

In addition, there is speculation that that the numerous agencies involved in the initiation of the service - Amtrak, Washington DOT, Central Puget Sound Regional Transit Authority and the FRA - failed to properly coordinate with one another, with neither assuming responsibility for general oversight. Further, there is a suggestion that the management reshuffles, imminent "buyouts" and furloughs of some 500 managers systemwide at Amtrak may have factored into the slipshod management at that time. Announced by new Amtrak CEO and President Richard Anderson just a few weeks earlier, the budget cutting scheme of the former airline CEO called for the elimination of 500 managers systemwide from all regions and levels by year's end.

John Hiatt, of the Bremseth Law Firm which is representing the engineer in the lawsuit, stated that, "This case of inadequate training is not simply a "one off". The company, behind its CEO, is making drastic cuts in safety related personnel and programs while losing thousands of years of railroading knowledge."



Opinion & Commentary

“Those Who Cannot Learn from History Are Doomed to Repeat It” - Part 2

According to the US Department of Labor’s Bureau of Labor Statistics, 5,250 workers were killed on the job in 2018. This was a 2% increase from the 5,147 workers killed on the job in 2017. But before you get too sentimental, longing for the bygone day’s of Obama’s “Hope & Change” era, it’s worth noting that in 2016, 5,190 workers left for work and never came home - a 7% increase from 2015’s 4,836 workplace fatalities. Those are the coattails that Biden is pathetically clinging to. In addition to these grim figures, the AFL-CIO estimates that 95,000 workers die every year from chronic illnesses, the result of years of working in toxic, hazardous conditions.

For those of you who missed Part 1 of my current stream-of-consciousness rant & rage, I encourage you to go to our website: www.railroadworkersunited.org. The bottom link on the left is the “RWU Archives.” That link opens up a menu of several options, including “Highball Articles”. Part 1 is in the Winter 2020 issue. If you’re new to *The Highball* and/or you’ve missed some issues, I encourage you to explore these archives more thoroughly for a wealth of insightful, informative and educational articles. In lieu of that, the famous quote - and title of this article - pretty much speaks for itself. The key operative word here is “LEARN.” That sounds simple enough but consider this: WHAT are we learning and WHO are we learning it from? That, in my personal, objective opinion, is THE question of questions.

Many of us in RWU have learned from and been inspired by Eugene V. Debs. Any and every disgruntled rail and/or RWU supporter owes it to him/herself to explore the Debs link on our website. Bernie Sanders referred to Debs as, “One of the most important Americans of the 20th Century.” in a 1979 documentary he narrated. This documentary - together with a wealth of information about Debs - is available on the website, if interested in a crash course on one of my heroes, a major source of my inspiration. Starting out organizing railroad workers in the late 1800’s, he spent the rest of his life attempting to challenge and inspire the working class to not only visualize a more just society, but to fight uncompromisingly for it. In his many speeches and writings, he attempted to share what he had learned, literally from the front lines of the class struggle. But he always implored his audience to not take his word for anything. “Go out and research the facts for yourselves. Once you do, I’m confident you’ll arrive at the same conclusions I have.” Debs was adamant that he not be perceived as a savior. His message to the working class was simple and straightforward: Educate yourselves on how and why the government and society functions as it does. If you agree that it is not serving your interests, per it’s publicly stated mission, then organize your vast numerical and economic power so that it does.

I know - a lot easier said than done. What’s the alternative? To just sit back, roll over and take it? I don’t think so! Not when the carriers are ruthlessly beating down and whipping rails, harder and harder, faster and faster, while the unions’ attempts to defend us are restricted by the existing terms of engagement. The relentless assaults on our safety and dignity, on and off the job, was unacceptable *before* this COVID-19 crisis further exposed their depraved contempt for our well-being (See pages 5 & 6).

As with every issue of *The Highball*, this issue has articles that shine a flood light on the consequences of the rail carriers’ insatiable drive for maximum profits. The article on page 3 serves

as a follow-up to our initial coverage in the Spring 2019 issue, with the front page article, “CP Runaway Train Wreck Claims Three - the Latest Casualties of PSR,” along with my commentary, “How Many More Rails Need to be Sacrificed at the Altar of Capitalism?” If you missed that issue, you’ll find them in the archives. The article in this issue makes reference to the Canadian news program, “The Fifth Estate”, which aired a segment on this incident. This is absolutely must-see TV for anyone reading this, your co-workers, friends, and family. If you weren’t on our mailing list to receive the RWU Weekly Digest Summary, Jan. 28, #4 Special Edition, which has a link to this segment, you’ll find these Weekly Bulletins in the RWU Archives, bottom link. Finally, the article on Page 1 of this issue of our newsletter, is a follow-up to our initial coverage of this incident, in the Winter 2018 issue, “Amtrak #501 Derails in DuPont, WA - Yet Another Avoidable Wreck.”

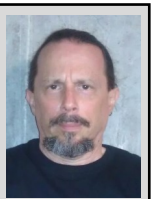
It’s more imperative than ever that we educate, organize, and mobilize ourselves in order to effectively resist this criminal carnage.

There’s a common thread among these incidents and many others. When veteran rail workers first learn of an incident, and a few concrete facts become known, we don’t need to wait for the “official” findings of the National Transportation Safety Board (U.S.) or the Transportation Safety Board (Canada) to arrive at a basic understanding of what went wrong. With all due respect to these agencies’ painstaking investigations, there’s also something to be said for our gut instincts, based on our years of experience. While it is absolutely counter-productive to spout off without essential facts, a wise man once said, “If it walks like a duck, looks like a duck and quacks like a duck, then...”

Regarding the CP #301 Death Train, we already know that running a loaded grain train, more than a mile long, across some of the steepest and most tortuous grades in North America, with temperatures exceeding minus 20 degrees Fahrenheit, is pushing the envelope. These are indisputable facts, based on the laws of physics, that the carriers teach us. So CP CEO Keith Creel doesn’t get to wax poetic, “That was a tragic accident ... We make mistakes but at the end of the day we learn from our mistakes and we grow stronger as a result.” REALLY?! Creel’s cringe-worthy assessment might work as a teaching moment to a 5 year-old, for some innocuous life lesson, but not here. Creel can call it a “tragic accident.” I call it corporate manslaughter.

When the Amtrak #501 tragedy happened, the first question that came to mind was that of training/qualifying - or lack thereof. We know that conductor and engineer preparations have been drastically cut, and that rails have been unhappy about this for years. “Do as you’re told - file your grievance later,” train crews are told, while the body bags pile up. It’s more imperative than ever that we educate, organize, and mobilize ourselves in order to effectively resist this criminal carnage.

Mark Burrows has served as Organizer and Co-Chair for RWU. He recently retired after hiring out in 1974, working as an engineer for a combined total of 37 years for the C&NW and the Soo Line/CP Rail in Chicago, Illinois. He was SMART-TD 1433’s Delegate for the 2011 & 2014 International Conventions and continues to be an active member of RWU.





Editorial

Is it Time for U.S. Rail Workers to Consider Railroad Nationalization?

The railroads of many countries are now - or have been at one time - nationalized; i.e., owned by the government in some form or other. In Europe following the Second World War, many countries nationalized their railroads. The citizenry saw them as too vital to the public good, and too abused by profit driven corporations, to be left to the whims of private ownership. The decision was made to run them in the public interest like any other public utility; e.g., highways, water, sewage, waterways, gas & electric, etc. Likewise, the Mexican railroads were nationalized in the 1930s, and the biggest railroad in Canada - Canadian National (CN) - was created by the Canadian government in 1919 when it took control of a number of smaller railways. (Both have since been returned to private ownership).

It may come as a surprise to many railroaders, but even here in the US, the railroads were nationalized for a brief period during World War I, when in 1917, it was declared that the railroads were incapable of coordinating the movement of freight and passengers efficiently, thereby hindering the war effort. After the armistice, the rail labor unions wanted to retain state control, but the government opted to return them to private investors in December 1918. In a referendum of railroad workers conducted at the time, 306,720 out of 308,186 (more than 99%) voted to keep the rails under government control. They supported a concept know as *The Plumb Plan*, named for attorney Glenn E. Plumb, under which the railways would be owned cooperatively. The federal government would sell bonds and use them to purchase the railroads. All railroads would be merged in a public corporation. Rates would be set by the Interstate Commerce Commission. The government would be paid 5% of revenue as a rental fee. Half of the profits would be given to the employees of the railroad and the other half would be used to retire the bonds.

The plan called for a board of directors with 15 members to control the railroad. The U.S. President would appoint five members, who would represent the public. The workers would elect five members, and management would elect five. The rail administration would be tripartite, including representatives of workers' unions, shippers' organizations, and bondholders. The plan showed how the interests of workers and farmers in the national transportation system could be protected. The Plumb Plan would supplant the old system of competition, under which the profits of the laborer's industry went to investors, by a new system where the profit of the industry would accrue to the workers - where "all employees were united by a common purpose, all working toward a common end, inspired by the same motives, by the same incentives," now that they controlled their industry.

The Railway Employees' Department (RED) of the American Federation of Labor (AFL), along with other rail unions including the BLE, staunchly supported the Plumb Plan, stating that workers should be given an incentive to make their industry productive, and provided a reward for their effort. Likewise, the delegates to the National AFL Convention in 1920 voted 3-to-1 to nationalize the railroads and place them under democratic management.

Fast forward one hundred years to today. The rail industry has not changed its spots, and like the Robber Barons of old, the Class I CEOs are running roughshod over their workers, passengers, shippers and the communities they serve. Precision Scheduled Railroading (PSR) is the latest gimmick that the railroads are using to extract more value from their workers and gouge their shippers, all the while returning vast sums to private investors, most of whom know nothing about the railroad, and care

even less about its long-term viability. One could make the argument that today's Wall Street modern day Robber Barons are even worse than their predecessors, since those of one hundred years ago actually had an interest in the long term viability of the railroad, and sought to expand its reach rather than contract it, as today's hedge fund investors are doing.

Sadly, over the last century, the only railroad infrastructure inherited by the public sector is that part which the rail industry had run into the ground, abandoned, and otherwise wished to cast off; i.e. passenger and commuter trains, branch lines and industrial trackage. The unions of course eventually fell into line, casting off any residual impulse to support public/worker ownership, pledging their allegiance to the Corporate States of America. And the biggest and most powerful railroads have consolidated their power, leaving just seven mega-systems remaining to control the vast majority of freight traffic in all of North America.

"The Plumb Plan would supplant the old system of competition under which the profits of the laborer's industry went to investors, by a new system where the profit of the industry would accrue to the workers."

But there are rumblings of discontent. Shippers are petitioning for regulatory assistance, displeased with service levels, a lack of rail cars, exorbitant rates, skyrocketing demurrage charges and more. Rail workers are angry, losing their jobs to new technologies, job combination, automation, longer working hours, declines in maintenance, harsh discipline and a steep decline in freight shipments. Morale is at an all-time low. Meantime, numerous citizens groups are clamoring for rail investment. They want more freight and passenger services, not less, and envision the nation's railroads as an invaluable asset, one to be vastly expanded, not contracted. In the face of climate change, environmental degradation, along with overcrowded, dangerous and crumbling highways, they know that a rail renaissance is imperative. Sadly, the rail industry is oblivious to all of this, seeking instead to scale back, retrench, and serve the short-term interests of a small group of privileged stockholders.

What does the future hold for the rail industry? Is our future to be dictated by Wall Street? Will Amtrak continue to limp along, underfunded and undercapitalized? Will carload shipments vanish completely, leaving most of the high value-freight to the highway, with just the low-value bulk commodities remaining for the railroads? Will the nation's shippers, rail workers and citizens stand for this irresponsible and unpatriotic behavior?

Our jobs, our livelihoods, and our industry are all on the line. Can we trust hedge funds, stockholders, CEOs and Wall Street to best defend our interests? PSR might just be the tip of the iceberg. What might be next? Before he died, the late Hunter Harrison spoke of single-tracking the once four-track mainline of the New York Central west of Albany, NY, and selling off the former B&O mainline through the Allegheny Mountains to a non-Class One operator. Are these and other insane actions what the rail industry has in store for us? Perhaps it is time for us to reconsider some form of re-regulation, government oversight, or even outright nationalization along the lines of the Plan envisioned by Glenn Plumb one hundred years ago.

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Dennis Pierce, President, Brotherhood of Locomotive Engineers & Trainmen (BLET) January 2020



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