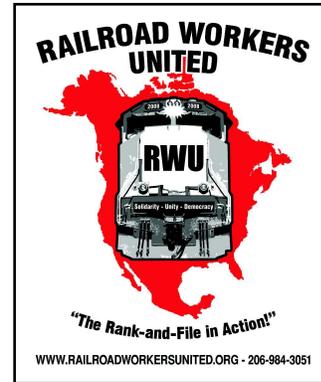


# The Highball

## The Newsletter of Railroad Workers United



### RWU Kicks Off Campaign For Coordinated Bargaining

At the September meeting of Railroad Workers United, the International Steering Committee voted to make coordinated bargaining among the various rail unions a top priority. At the Founding Convention in April, RWU passed a resolution to this effect (see full text in this issue of The Highball). Now the organization has agreed to gear up and throw its resources into building a national campaign to achieve a united bargaining coalition among ALL rail labor to more effectively fight the carriers in the upcoming round of national handling.



On November 1, 2009, the National Carriers Conference Committee (NCCC) and the various

rail unions, will exchange “Section 6 Notices” as prescribed by the Railway Labor Act, the law which governs labor relations for most rail workers in the U.S. These notices act as a sort of “wish list”, a basic starting point from which the two sides – labor and management – can proceed to bargain. In general, the union wants to win better wages, benefits and working conditions for its members, and its Section 6 notice will reflect that. By the same token, the carriers wish to hold the line or attempt to reduce compensation, eliminate workers, erode benefits, and dismantle work rules. Like in any contest, the more unified, the more organized and determined each side is, the more likely they are to prevail. *(cont'd page 2)*

### RWU Builds Real Rail Safety

Things are hot at Union Pacific’s Tucson terminal, and it is not because of the weather. In July, UTU Local 807 members voted 4-to-1 against participation in UP’s “Total Safety Culture” (TSC) program. TSC is a behavior-based safety (BBS) program that focuses on workers’ behavior instead of removal of hazards in the workplace. TSC finds ways to blame workers for accidents in the workplace, and also works as a union-busting tool by default.

Starting in September of 2007, TE&Y employees working at Union Pacific’s Tucson, Arizona terminal were notified that they were to attend one day of classroom training on UP’s newest idea to create a safer workplace, a gimmick known as “Total Safety Culture”. *(continued on page 3)*

**COORDINATED BARGAINING (CONT'D)**

Interestingly, the carriers have bargained under the umbrella of the NCCC for years, while the unions rarely manage to cooperate with one another. All the major U.S. carriers plus a dozen or so smaller roads are represented by the NCCC. The unions all too often stand alone in the negotiating process. This past round of bargaining witnessed the formation of the Rail Labor Bargaining Coalition, a loose association of seven rail unions, and was a step in the right direction. While the RBC included the two large Teamster affiliated unions – the BLET (engineers) and the BMWED (track workers), it failed to bring in the other two large rail unions – the UTU (trainmen & yardmasters) and the TCU (clerks, carmen, etc.).

RWU believes that as long as we remain divided and separate, the carriers will continue to have their way with us. The old craft union structure has been a severe impediment to solidarity since the days of Eugene V. Debs, well over a hundred years ago. Speaking in 1905, Debs stated, “Why should the railroad employees be parceled out among a score of different organizations? They are all employed in the same service. Their interests are mutual. They ought to be able to act together as one.” Unions are instruments of power and are only as strong as our solidarity. To achieve the power necessary to win a good contract will require a high degree of solidarity.

It is imperative that every union member of every union from every craft stand together. Do not sell one another out, do not cut a deal with the carrier, do not stab your fellow union brother or sister in the back!

To these ends, RWU plans to circulate petitions on all properties in terminals around the U.S. asking that our respective

union officials work toward building that united bargaining coalition and pledge to stand together against the carriers. “No Union Settles Until All Unions Settle!” “Solidarity of All Rail Workers from All Crafts and All Unions!” “An Injury to One is an Injury to All!” These are our demands. Consider carrying the petition in your terminal, explaining the campaign to your co-workers and signing them on to this worthwhile project. It’s your contract and your future!

**What If Everyone Wore These Shirts To Work??**

Available in S,M,L, XL, XXL, XXXL, or XXXXL. Shirts are 100% union-made in the USA and are \$15 a piece. You can pay with check made out to RWU and mail to: RWU P.O. Box 1053 Salem, IL. 62881. Or use your PayPal account and pay to: [treasurer@railroadworkersunited.org](mailto:treasurer@railroadworkersunited.org) Order as many as you like. Give them to your coworkers, friends and family! For online orders, please check out our website at [www.railroadworkersunited.org](http://www.railroadworkersunited.org).

**TUCSON VICTORY (CONT'D)**

Participants were asked to observe their fellow workers and report "safety violations" to management.

Those of us at RWU shared concerns about this proposal, and during our founding convention in April of this year, that agenda was revealed when we attended Nancy Lessin's workshop, "Ain't Misbehaving - Confronting Management's Blame-the-Worker Safety Programs." She explained that there is one crucial point to remember when talking about injuries in the workplace, "All injuries and illnesses are the results of exposure to hazards. There are no exceptions!" With this statement, Ms. Lessin opened our eyes and thus began our education on BBS programs.

Safety professionals agree that using the "Hierarchy of Controls" is an effective way to resolving safety and health problems. The consequence of a BBS program like TSC is that it turns the "Hierarchy of Controls" upside down and relies on the least effective methods of preventing injury to workers. TSC also co-opts union members and uses them as tools of the company to run a union-busting component. Union members would be observing and reporting on their brothers and sisters as part of TSC process and turning in those reports to the carrier.

The TE&Y employees who run TSC in Tucson have the perk of air conditioned offices, full time OS (other service) status, and a 9 to 5 workday. You may have heard of many other locals who love TSC and are behind it. The seductiveness of being in full time OS status instead of on-call or working a midnight switch job is simply too alluring for some.

Upon return from the RWU founding convention, and armed with the new found knowledge of TSC, RWU members went to work on a campaign to fight it. RWU kicked off a "Vote No on TSC" campaign with a

workshop held in Tucson, AZ on May 20th. Participants in the workshop received an informational packet on BBS programs, and joined in on a question and answer discussion.

This was surely the flash point that started the real battle against TSC in Tucson. For the first time, the trainmen and engineers of Tucson were shown the ugly truth about Total Safety Culture and what Union Pacific's true motive was: escape from liability: blame the worker! Also present were engineers and trainmen were on the TSC "I" Team, ("I" being short for "implementation"), *paid* to be there by the Union Pacific Railroad.

From the onset, BLE&T Division 28 (representing engineers) and UTU Local 1800 (representing switchmen) did not participate in TSC. In a letter written on May 14th, BRC Int'l Rep. L.C. Bauman further stated, "Effective with this letter, my office will no longer participate in Total Safety Culture." RWU efforts were further fortified in a June 19th letter written by BLE&T General Chairman D.W. Hannah to A.C. Hallberg, Director of Labor Relations at Union Pacific Railroad. At the time, there were a number of engineers and trainmen in the Tucson terminal in OS status who were being paid to do so by the company. Mr. Hannah's letter stated in part, "Regarding the use of engineers as "safety captains" or any other name or position not covered by the existing agreement(s) with the general committee, this is to advise that when engineers leave the service of the Carrier as an engineer, then performs work in another position not covered by the agreement covering engineers and not protected by the leave of absence agreement, when and if the employee returns to work as an engineer his/her seniority will be at the bottom of the respective engineers seniority roster at the locations where he/she returns

to work and will be treated as a newly promoted engineer."

Upon receipt of D.W. Hannah's letter, BLE&T Division 28 Local LC informed UTU-E Local 807's LC that the engineers within his local had seven days to return to active status as full-time locomotive engineers. Soon after this letter, those engineers participating in the "I" team resigned from the TSC campaign.

When UTU Local 807 was set to vote on whether or not their members would participate in TSC, there were no unions on the property in Tucson participating in it. Now that the leadership of Local 807 had been educated about the reality of TSC, and were backed by the knowledge that the Carmen, BLE&T, UTU Local 1800 switchmen and the UTU-E 807 engineers were off of the "I" team, a core group within UTU 807 acted.

A mailer was sent to all members of UTU Local 807's ten elected officials, urging their members to "Vote no on TSC." The effort worked, and the members of UTU Local 807 voted down participation in TSC 4 to 1. This was, by many accounts, the first time in memory that the Local 807 decided not to have another anti-union program shoved down their member's throats. The members of UTU Local 807 stood up to the carrier and won a real victory.

No matter what your craft or terminal - if you work for the railroad, TSC is certainly headed your way. It may already be present in your terminal, and members of your local may already be participating. For more information on what other unions say about behavior-based safety programs like TSC, and why BBS programs are bad for unions and workers, check [www.railroadworkersunited.org](http://www.railroadworkersunited.org). If your union local makes the decision to fight TSC/BBS in your terminal, RWU has the material and an outline for you to fight and win your own battle.

## METROLINK CRASH: EDITORIAL

### An Opportunity to Make Real Safety Improvements

The recent crash of a Metrolink commuter train and a Union Pacific Freight train should provide the impetus to make real safety improvements. The emerging, premature consensus over the following week was that the Metrolink engineer was to blame. The response? A ban on cell phone use while operating a locomotive.

But we miss the point – and the opportunity to create a safer railroad – if we focus exclusively on the specifics of this one incident and human error. Al Chapanis, Former Professor of Human Factors at the Engineering Department of Johns Hopkins University makes the case well: “Everyone, and that includes you and me, is at some time careless, complacent, overconfident, and stubborn. At times each of us becomes distracted, inattentive, bored, and fatigued. We occasionally take chances, we misunderstand, we misinterpret, and we misread. These are completely human characteristics. Because we are human and because all these traits are fundamental and built into each of us, the equipment, machines and systems that we construct for our use have to be made to accommodate us the way we are, and not vice versa.” Rather than focus strictly upon worker behaviors in the wake of industrial accidents, injuries and death, we need to focus on the underlying structural causes, the hazards that can be eliminated that can assure that such devastating accidents are not repeated. It should go without saying, that in the case of this recent horrific wreck, more than simply a cell phone ban is required.

What about the fact that the rail carriers have decided – with government complicity – that it is



OK to operate a passenger train with just one employee in the cab? And why, when we all know of its disastrous effects, does the question of crew fatigue continue to go unaddressed? Why, after a similar wreck in Maryland in 1996 that involved a MARC commuter train,

was no action taken to reconfigure signal systems to provide engines departing passenger stations with a signal indication? Why has “Automatic Train Control” not been installed on high density, high speed freight/passenger lines like the one in question, and why has it been deactivated and ripped out from thousands of miles of railroad nationwide? And with all the talk of Positive Train Control, why is it not moving forward?

If every time we witness a tragedy of this proportion and simply point fingers and lay blame upon individual workers, we miss the opportunity to correct the underlying problems. The rail carriers would have us believe that “all accidents and injuries are avoidable” and focus upon worker behavior modification as the sole way to achieve a safe workplace. But in reality, accidents and injuries are caused by hazards.

Yes, it is vital that workers do their jobs correctly, follow the operating and safety rules, remain focused and maintain their situational awareness while on the job. But it is long past time for the nation’s rail carriers to stop blaming workers and hiding behind “Behavioral Based Safety Programs”. It’s time the carriers step up to the plate, make the necessary investment in safety, and responsibly do their part in hazard reduction and elimination. It is also time for the federal regulatory agencies to demand the same.

For the full text of this article and/or more information on the Railroad Workers United’s campaign to build real safety, see the website at <http://www.railroadworkersunited.org>

---

## RWU RESOLUTION ON BUILDING REAL RAIL SAFETY

**Whereas**, many currently existing joint “safety committees” and safety programs that are composed of representatives of both rail management and rail labor are, for the most part, designed solely by the carriers; and

**Whereas**, the model that these committees and programs primarily adhere to is one based upon a concept known as “Behavior Based Safety” (BBS); and

**Whereas**, this model of safety does not address the most important means by which we can successfully create a safe workplace; i.e., the elimination of workplace hazards; and

**Whereas**, BBS programs do nothing to address the problems at their origin, which are corporate, managerial and regulatory designs and decisions that may actually be the root cause of a number of workplace hazards; and

**Whereas**, while the carriers are content to advocate a BBS approach, this strategy simply serves to save the company money while doing nothing to address real issues that we as workers face everyday – inadequate new hire training, lack of adequate qualifying time, crew fatigue, faulty equipment, slip-trip-fall hazards, etc.; and

**Whereas**, a genuine “union based” rail safety program would be a cooperative effort between members of all rail unions, where both worker behavior AND hazard elimination are given due consideration; and

**Whereas**, the focus has always been on worker behavior, and despite worker participation in safety programs, management continues to spy on, harass, discipline and fire, leaving countless rank-and-file rail workers cynical, bitter and resentful about the carriers’ safety programs; and

**Whereas**, as a result of this, numerous union locals of the various crafts across the continent have withdrawn in disgust and protest from such joint union-management safety committees altogether; and

**Whereas**, much of organized labor – including the AFL-CIO and large industrial unions like the Steelworkers (USWA), Auto Workers (UAW) and Transport Workers Union (TWU) have condemned BBS as a fraud, gimmick and union busting tool that only benefits the company to the detriment of union solidarity and real worker safety;

**Therefore, be it Resolved**, that Railroad Workers United condemns Behavioral Based Safety as a detriment to union members’ safety and union solidarity, designed to only benefit the company; and

**Be it Further Resolved** that RWU urges rank-and-file union members to build independent, union based safety committees that are accountable to their members: and

**Be it Further Resolved** that RWU advocates the building of genuine union operated safety committees which address hazard elimination, not just worker behavior; and

**Be it Further Resolved**, that RWU calls on the various unions to stand united on this vital issue of safety and refuse to allow management to pit one member, one craft and/or one union against another in our efforts to build such programs on the various rail properties throughout North America; and

**Be it Finally Resolved** that a copy of this Resolution be forwarded to the International officialdom of all rail unions in North America.

*This resolution was adopted at the September meeting of the RWU International Steering Committee 9/2/08.*

## **RWU RESOLUTION ON COORDINATED BARGAINING**

**Whereas**, the rail carriers have succeeded for years in establishing “pattern contracts” by first bargaining with one of the rail unions, and then using provisions of the Railway Labor Act to “force” that pattern on remaining unions; and

**Whereas**, Rail Labor, as a result of pattern bargaining, has for years been forced to settle for substandard agreements, both national and “on-property”; and

**Whereas**, the rail carriers have been making record profits and should be sharing more, instead of less, of those profits with the very railroad workers whose productivity and hard work have contributed immensely to building those record profits; and

**Whereas**, only by building unity and solidarity of all rail crafts and their respective unions will we be able to stop “pattern bargaining” and create the real bargaining power we need;

**Therefore, Be it Resolved**, that Railroad Workers United (RWU) at its Founding Convention in Dearborn, Michigan, April 11, 2008 pledge to do all in its power to convince all rail unions to create a “United Bargaining Coalition” and wholeheartedly cooperate with each other to strengthen bargaining power and end substandard pattern contracts; and

**Be in Further Resolved** that RWU will forward this resolution of intent to all International officers of all rail unions in North America; and

**Be it further Resolved** that the United Bargaining Coalition operate under the principle that “no one settles until all settle.”

**Be it Finally Resolved** that RWU will commit to a cross-craft inter-union education of the membership of all unions to support such a “United Bargaining Coalition”.

*This Resolution was adopted by those members assembled at the RWU Convention, April 11, 2008.*

## **BMWED MEMBERS THREATENED FOR ATTENDING SAFETY MEETING**

When a number of track workers -- members of the Brotherhood of Maintenance of Way Employees (BMWED) -- planned to attend a union sponsored track safety class in Kansas City, Union Pacific management saw fit to deny them the right to participate. The class was sponsored by the Federal Railroad Administration. An official from UP contacted the safety director for the union, Rick Inclima and complained. Apparently, this overzealous manager did not see fit that the union represented track workers take part in the government offered class.

The carrier was not asked to pay the track inspectors' salary or expenses. Nevertheless, on the day of the program, UP managers refused to allow them to attend. "I find it outrageous that the Union Pacific would deny these track inspectors the opportunity to attend this FRA-conducted safety program," stated Safety Director Inclima. "Evidently, UP does not want its track inspectors to have unfettered access to FRA safety inspectors. For a railroad that claims to place a high priority on safety, its actions belie its safety rhetoric." Between 2004 and 2007, over a third of Union Pacific reportable train accidents -- 1,214 -- were attributable to track related defects. During these years, twenty-one UP employees were killed in these accidents, five of them members of the BMWED. As a result, the union and its members have a keen interest in promoting safe track practices and learning all they can from various sources -- including the FRA. The FRA sponsored class addressed the practicalities of eliminating hazards which can result in accidents, injuries and/or death to union members.

The BMWED represents 50,000 employees of freight and passenger railroads in North America, including members who build and maintain track, ties, bridges, buildings and other structures along the railroad right-of-way. All the major carriers employ members of the union.

**Have a feature story, news flash, cartoon, or any other ideas for this newsletter? We want to hear from you! Drop us a line at [newsletter@railroadworkersunited.org](mailto:newsletter@railroadworkersunited.org), or RWU P.O. Box 1053 Salem, IL. 62881.**

## **UTU-SHEET METAL MERGER BLOCKED BY FEDERAL JUDGE**

*By Judith Schneider, Association for Union Democracy*

In June, Federal Judge John R. Adams granted a preliminary injunction blocking a pending merger between the United Transportation Union, representing railway and bus workers, and the Sheet Metal Workers Union, which includes some railway and bus workers, into a new entity to be called SMART (Sheet Metal, Air, Rail and Transportation Workers.) The suit challenging the merger was brought under LMRDA Title I by Roy Arnold, then a UTU Vice President; John Hasenauer and Jim Eubanks (RWU), then UTU local officers; and Ed Michael, a UTU member (and RWU co-founder).

The merger was approved by UTU members in a mail ballot referendum in Summer 2007, but soon after the ballots were counted and before the actual merger had been consummated, two new facts muddied up the waters: 1. At a UTU convention, a new set of officers replaced the old; 2. it was revealed that UTU members had been denied crucial information before the referendum vote.

The plaintiffs claimed that UTU members had been denied a meaningful discussion and debate before the vote. Members had been falsely assured that UTU autonomy would be preserved and that the UTU constitution would be

transferred "intact" into a new SMART constitution. However, no text of any new constitution was available before the vote. Only after the vote did it become clear that numerous UTU constitutional provisions would need to be eliminated or modified to conform with Sheet Metal Workers provisions.

In reaching his decision, the judge noted that a meaningful vote requires "full disclosure of the terms of the proposals submitted to the membership for a referendum in order to ensure that the vote is meaningful and that the membership has fully participated in the decision making process."

*cont'd page 8*

**SMART?? (CONT'D)**

Because the merger is now only on hold by virtue of the judge's preliminary injunction, the case seems doomed to an extended period of intricate litigation. The merger agreement had been negotiated and strongly pushed by outgoing president Paul Thompson. After the new president, Malcolm Futhey, took office in January 2008, however, he proposed to rerun the referendum so long as a new SMART Constitution was presented for membership before the revote; and there was consensus among 140 UTU officials for support of that proposal, which could have resolved the whole dispute amicably and reasonably democratically. But it was not to be, because the proponents of merger seemed determined to ram it through.

Seven members of the current UTU Board of Directors, supporters of the merger, have been permitted to intervene in the suit. They claim that the judge lacks jurisdiction even to hear the case, and so they are seeking dismissal of the entire action. They argue that the dispute is really over the 2007 election of UTU officers and that under LMRDA Title IV only the U.S. Labor Department, not the judge, is authorized to consider the complaint. Meanwhile, they are in the federal Court of Appeals challenging the preliminary injunction. The Kansas City Star reports that the Sheet Metal Workers union strongly backs completion of the merger but apparently it does not want further consultation with the UTU membership.

If the injunction were lifted, the UTU would be dissolved into the Sheet Metal Workers even though the legality of the questionable merger referendum would still be subjected to legal challenge. Then, even if the merger was finally declared unlawful, merger opponents point out, it would require "putting Humpty Dumpty together again."

Moral of the story? An intricate, painful, expensive litigation is forced upon the membership of two unions, simply because a few union officials cannot tolerate a simple democratic referendum.

*From the Association for Union Democracy*  
[www.uniondemocracy.org/](http://www.uniondemocracy.org/)

**RAILROAD WORKERS UNITED OPPOSES "BONUS" SCHEMES**

In recent years, a number of unions across North America have settled for contracts that – rather than provide for a solid base-building wage increase over the life of the union agreement – gamble on their members' future livelihoods. Like private pension schemes, these "bonus" plans promise big dividends and the chance for workers to "share" in the big profits of the corporation.

However, as recent experience shows with the BLET agreement on the BNSF property, this rosy picture of gigantic lump sum payments at bonus time is all too often a fraud. Bonus schemes are no substitute for annual base-building wage increases and COLAs. These bonus plans forfeit and gamble with our economic security and our future, put our faith blindly in the performance and honesty of the company, and often end up denying any payment at all to some unfortunate union brothers and sisters. Perhaps most significantly of all, these bonus type schemes foster individual consciousness and erode our union solidarity.

The International Steering Committee (ISC) of Railroad Workers United, at our July meeting, passed a resolution in an attempt to alert the rank-and-file to the dangers of such schemes, and to pressure our respective craft union leaderships to forcefully oppose such arrangements at the bargaining table. To view a copy of the resolution, please see the RWU website at [www.railroadworkersunited.org](http://www.railroadworkersunited.org) and select "RWU Resolutions" from the Menu.

RWU has produced a bi-fold flyer outlining a united and strategic approach to bargaining. Also, we have a poster, formal resolution and petition to support our campaign for coordinated bargaining. Plans are in the works for buttons, stickers and other paraphernalia. Please join us! To get involved in the campaign, call RWU at 206-984-3051. Or simply download from the RWU website at [www.railroadworkersunited.org](http://www.railroadworkersunited.org).