Longtime readers of The Highball will remember the promise the OSHA Whistleblowers program showed, especially after the introduction of an advisory panel in 2012. By 2015 it was clearly apparent that railroads were among the worst violators of whistleblower protections with rail carriers constituting 70 percent whistleblower cases. Railroad Workers United (RWU), along with BNSF engineer Mike Elliot, were able to testify to their experiences in Washington DC in 2016. Elliot finally prevailed in court, winning his whistleblower judgment against BNSF last year.

Despite these victories, or maybe because of them, the Whistleblower Advisory Committee no longer meets as it has been disbanded. This year OSHA put out a notice of public rules-making to field comments for reforming the whistleblower program. Due to overwhelming response to the call for an April teleconference call asking for public comment on the potential for delivering better service, OSHA limited respondents to five minutes to testify.

Advocating for railroad workers, Mike Elliot was able to share his experiences of delays, hardships and outright harassment as his case moved forward. Joining the former engineer were RWU General Secretary Ron Kaminkow, and RWU co-chair, Ross Grooters. Both testified to the problems of the program and shared how it can be improved by allowing for more time for workers to file cases, expediting worker claims, and issuing judgments with penalties that have the teeth to deter violators, that can also be used in legal cases. Currently OSHA rulings are inadmissible as evidence in a court case. Backing up the three railroad workers was testimony from Nancy Lessin, former USW Health and Safety educator, and RWU Lifetime Solidarity member. Nancy, a former Whistleblower Advisory Committee Member, was able to hammer home how current changes to the Whistleblower program ignore the needs of workers and have led to issues in other industries, such as meatpacking, where the COVID-19 pandemic, and corporate Ag’s failure to protect workers, have led to huge outbreaks in communities in the Midwest and all across the country. The response by these companies, much like the response of railroads, has led to unsafe working conditions which, absent a strong whistleblower program, will go unchecked.

Without a strong whistleblower enforcement program, companies will continue to defy the law, much less our basic human rights. It is incumbent upon us to push for these protections as railroads continue workforce reduction, ramp up production over safety, and micromanage discipline through new technology. RWU will continue to advocate for strong whistleblower protections, and a regulating agency which can advocate for workers in the rail industry and beyond.