RWU Nomination for Class One Rail Carriers for 2023 “Dirty Dozen”

Note from COSH regarding the process: As part of our observance of Workers’ Memorial Week 2023, National Committee on Occupational Safety & Health (COSH) will release a report listing the "Dirty Dozen" employers who are putting workers and communities at risk through unsafe practices. Nominations are due by MONDAY, February 20, 2023.

Employer you Nominate for the Dirty Dozen:

Class One Railroads in the United States (BNSF, CSX, Kansas City Southern, Norfolk Southern, Union Pacific, Canadian Pacific, Canadian National Railway)

Please let us know how workers are being exposed to unsafe working conditions?

1 - The current and on-going health, safety, and environmental disaster involving the derailment of a Norfolk Southern “bomb train” – a 150-car Norfolk Southern train in East Palestine, Ohio on February 3, 2023 spilling vinyl chloride and other toxic and hazardous chemicals, some of which are now in the water, soil and air;
2 - Rail workers’ fight for paid sick days that captured national attention during recent contract negotiations with a rail strike looming. Most rail workers have traditionally had NO paid sick leave. The rail carriers risked a national rail shutdown and all the possible side effects to society that might have entailed rather than pay a day of sick time to their employees.
3 – Harsh and draconian attendance policies which demand that rail workers come to work whether sick, fatigued or suffering family emergencies, leading to a degradation of their health and well-being, creating stressed out and fatigued workers which can lead to risky and dangerous workplace situations.
4 – The propensity of the carriers to build and operate longer and longer trains as a cost savings measure, despite the evidence that these trains are generally more difficult to handle, have a greater propensity to break in two, and to derail. And when they do derail, result in a more cataclysmic wreck than trains of standard length;
5 – Massive cutbacks in maintenance staff and a resultant decline in the maintenance and inspection of infrastructure (rail cars, locomotives, track, signals, other equipment);
6 – The rail carriers’ relentless push to eliminate the road conductor from the cab of the locomotives, leaving just one lone employee to operate the train and take care of every other aspect of the trains’ operation as well, often alone for 12 or more hours at a time in remote territory.

These are just six examples of life- and health-impairing hazards the rail industry is responsible for. (see more about them below). Despite their claims to the contrary, safety is on the decline at the Class One railroads. They have been accelerating the introduction of practices that have made railroads and rail work more dangerous. Underlying these six manifestations of sheer disregard for worker health and the health of the public and the environment are the programs, policies and practices of rail carriers that continue their centuries-long history of putting their profits above all else, harming rail workers, their families, tracksid communities, the general public, passengers, and the environment. As safety has declined, carrier profits and stock prices – together with stock buy-backs – have reached all-time highs. The Class One rail carriers have become some of the most portable – and powerful - industries in the country.

- **The Norfolk-Southern Train Derailment in East Palestine, Ohio on February 3, 2023:** See:

- **Wreck of a Union Pacific freight train by the Salton Sea, CA on September 8th, 2022.** The carrier knew the dangers of the alkaline and the detrimental effects it could have upon the track circuit. Nevertheless, no precautionary measures were taken (such as derails nor switch spiking/locks) to prevent movement into the occupied siding. The train entered the siding on a false
“clear” (diverging approach) and crashed into standing equipment. Both engineer and conductor were thrown from the train and killed.


- The wreck of Amtrak Train #4 The Southwest Chief on June 27, 2022. At an unprotected and extremely dangerous rural road crossing in Missouri, an Amtrak train with 275 people aboard collided with a truck, derailed the train on its side, killed 4 and injured scores of passengers. Local residents had complained to the railroad for years, simply asking the carrier (BNSF) to trim back brush that was obscuring the view of the tracks and oncoming trains. The carrier did nothing.
  - [https://apnews.com/article/amtrak-accident-missouri-investigation-10b519f9c4bf04d4a3cd490fddae217c](https://apnews.com/article/amtrak-accident-missouri-investigation-10b519f9c4bf04d4a3cd490fddae217c)

- Precision Scheduled Railroading (PSR): this is Class 1 (long-haul/freight) rail carriers’ version of “lean,” using cost-cutting measures that result in transporting freight operating ever longer trains with fewer workers. In the last six years, major U.S. freight carriers have reduced their workforce by 30%; those left working have often unpredictable schedules and face a system that does not tolerate time off work even for sickness. There are many stories like these:

  “Last June, one middle-aged union engineer postponed a doctor’s visit for work then died of a heart attack on the job weeks later. A conductor who spoke with the Times began feeling rundown last year but declined to see a doctor for fear of being disciplined for taking an unplanned day off. Instead, he waited months for the next doctor’s appointment that aligned with a scheduled day off. He then learned he’d been suffering from an infection that could have been treated with medication weeks earlier but would now require surgery.”  

PSR is implicated in the disaster in East Palestine, Ohio; the lack of paid sick days for rail workers; fewer track and equipment inspections as there are fewer workers and speed-up resulting in the skimping on maintenance; the overwork and stress experienced by rail workers; the “bomb trains” putting
worker, community, and environmental health at risk, single-person train crews and so much more.

See: https://www.railroadworkersunited.org/oppose-precision-scheduled-railroading


**No Paid Sick Time:** Much has been written recently about this issue in relationship to rail workers. This article shares the voice of rail workers within the larger struggle for paid sick time: https://prospect.org/power/2023-02-06-paid-sick-leave-rail-unions/

**Retaliation against Whistleblowers:** Rail carriers have a long and on-going history of retaliating against rail workers for raising health or safety concerns and for reporting work-related injuries and illnesses. When OSHA used to publish their annual list of the top ten violators of whistleblower protection statutes, rail carriers often held seven of the top 10 slots. This trend continues.

See three 2021 OSHA news releases exemplifying OSHA violations against rail carriers (two for CSX, one for BNSF) for retaliating against whistleblowers with awards to rail worker whistleblowers, but understand that because rail carriers challenge these awards, little or nothing often reaches these whistleblowers:


**Single-person train crews:** The rail carriers’ desire to single-employee train operations pre-dates their more recent unleashing of PSR. Single-person train operations have been actively fought against by rail workers for at least 18 years, as a hazard to rail workers, the public and the environment. While rail worker campaigns against this dangerous trend have had some victories in the form of state laws, draft federal regulations at the FRA currently contain loop-holes that would allow existing operations to continue, and potentially provide a “road-map” for the Class
Ones to begin the practice across their systems. For more information about the hazards and problems associated with single-person crews: “At first glance, the casual observer from outside of the rail industry is prone to say that single employee train operation sounds dangerous. “What if the engineer has a heart attack?” is an often heard question. And while this question has merit, there are many other and far more complex and unanswered questions about just how single employee train operations could be accomplished safely and efficiently for the train crew, the railroad and the general public. How will the train make a back-up move? What happens when the train hits a vehicle or pedestrian? How will the train crew member deal with “bad-order” equipment in his/her train, or make pick-ups and set-outs en route? What about job briefings and calling signals, copying mandatory directives and reminders of slow orders?” – See full article, “What’s wrong with single-employee train operations” here: https://railroadworkersunited.squarespace.com/whats-wrong-with-single-employee-train-operations/

What (if any) actions have workers taken and what has been the response of the employer?

Railroad Workers United (RWU) was founded in the spring of 2008 in Dearborn, Michigan when rail workers came together from various crafts, unions and rail carriers to build a solidarity organization of all railroad workers in North America and pursue campaigns to improve railroad work and working conditions. RWU membership includes rail workers from 13 different craft unions as well as non-supervisory rail workers who are not in unions. They have engaged in numerous actions and campaigns since that time to improve working conditions and prevent disasters:

Campaign Opposing Precision Scheduled Railroading (PSR):
Materials from RWU’s campaign opposing Precision Scheduled Railroading can be found here: https://www.railroadworkersunited.org/oppose-precision-scheduled-railroading

Campaign Opposing Single Employee Train Crews

One of RWU’s first campaigns was focused on “No Single Employee Crews,” a campaign that is on-going. Some state laws now prohibiting single employee train crews were passed with help from RWU members in (what states, what years). A current campaign for federal law to prohibit single employee crews is described here:
“Railroad Workers United (RWU) is submitting an official comment to the Federal Railroad Administration (FRA) on the Notice of Proposed Rulemaking - "Train Crew Size Safety Requirements." While we are encouraged that a Rule is finally once again being promulgated on this vital question after a six-year hiatus, RWU is not happy with the current language as proposed. The Rule - if finalized in its current form - has the potential to allow almost any rail carrier to run most trains with LESS than the two-person crew minimum that the Rule would ostensibly mandate. In addition, the Rule - if finalized in its current form - would preempt all existing state laws on the books, which now require a two-person train crew minimum.

RWU urges all rail workers, family and friends, and all concerned citizens to submit a Public Comment on this crucial rail safety issue. Let the FRA know that you want to see an ironclad Rule that mandates a minimum of two persons on every train. We do not need to allow exemptions, and we do not need to pre-empt existing state laws!" https://files.constantcontact.com/38adf15f301/8b4e8820-2d74-4faf-9253-3c4ccbf8dbbd.pdf

Railroad Whistleblower Defense Efforts:
“Railroad workers - like other workers - are ostensibly protected by a whistleblower law which was designed to prevent employer retaliation for reporting safety hazards, for sustaining a workplace injury, or other safety related concerns on the job. To get a better idea of what your rights are, see the Summary of Rail Whistleblower Rights under the Federal Rail Safety Act (FRSA). Also worth a look at is the OSHA Fact Sheet: Whistleblower Protection for Railroad Workers

While the law may "guarantee" railroad workers a certain level of rights in this regard, unfortunately, its enforcement is lacking. In addition, the rail carriers have discovered numerous loopholes and use the law to their advantage. See the information below to learn more about the law and efforts to make it work for railroad workers.” See: https://www.railroadworkersunited.org/railroad-workers-defense-efforts

Campaign to Oppose Long and Heavy Trains: https://www.railroadworkersunited.org/new-page-89

Campaign Against “Blame-the-Worker” Safety Programs: https://www.railroadworkersunited.org/safety-programs

Campaign to Prevent Train Crew Fatigue: https://www.railroadworkersunited.org/stop-crew-fatigue

Campaign to Call Attention to the Hazards of Rail Work and Honor Fallen Rail Workers:
In 2009 RWU initiated a program to honor rail workers who were killed on the job and “fight like hell for the living”: https://www.railroadworkersunited.org/remember-fallen-rails/

Are there workers who can provide testimony?

Yes, there are many! Currently, the RWU Media Outreach Committee would make the best team for the job. RWU can put the National COSH in touch with dozens more working and retired railroad workers who tell their stories and vouch for everything that is written above.

Here are the names, descriptions and contact information of the current Team: https://docs.google.com/spreadsheets/d/1k2deLhs8Zfm-SWOFAO-PhFbWTu8tUKQFLd8nxkAvAHk/edit#gid=469709941

RWU thanks the National COSH for the opportunity to present our case that the Class One rail carriers have worked hard for – and deserve - to take their rightful place in this year’s selection of “The Dirty Dozen.”