Bay Area Rapid Transit fined in death of two workers

David Brown
21 April 2014

On April 17, Bay Area Rapid Transit (BART) was fined $210,000 by California Occupational Safety and Health Administration (Cal/OSHA) for safety violations in relation to the deaths of two workers during the transit strike last October. The two workers were doing maintenance in place of striking workers when struck by a train being run by a scab driver in training.

According to the OSHA report BART was guilty of three willful serious violations, each one carrying a $70,000 fine. A violation is considered willful if management knows of the danger and does not take reasonable action. The OSHA investigation was limited in scope and makes no determination as to why management was willing to willfully endanger employees.

The first citation regards the lack of training given to the two deceased, Christopher Sheppard and Laurence Daniels, neither of whom was qualified to work on an energized track next to the 1,000 volt "third-rail." Sheppard was a special projects manager while Daniels was a contractor and consulting engineer.

The second citation is due to the use of a driver who had not completed training. The trainer at the time of the collision was seated in the passenger section of the BART car along with other managers and trainees instead of watching the track alongside the untrained scab driver. BART management initially tried to claim that the trainer was driving the train at the time but was forced to backtrack as the investigation continued.

The final citation concerns the inadequacy of BART's safety protocols even when they are implemented by trained workers. Under the "simple approval" procedure that was in place at the time, workers would inform dispatch of their location but dispatch had no responsibility to inform track workers about incoming trains.

All three safety violations were listed by OSHA as "abated," as they do not need to be remedied. The President of AFSCME local 3993, of which Sheppard was a member, praised the OSHA findings, saying:

"BART management and board members are finally being held accountable for the poor choices they make with regards to policies and procedures related to worker and rider safety. It was their arrogant belief during the strike last October that they could run the system without the people who possess the skills and experience to run BART safely, and two men are dead because of that."

The fundamental cause of these deaths, however, was not simply "poor choices" that management will now correct. The decision to ignore safety measures already in place came directly from the desire of both BART management and the unions to break the October transit strike.

The fatal accident occurred on October 19, just one day after the Service Employees International Union (SEIU) and Amalgamated Transit Union (ATU) had called the second strike in four months over employee compensation.

The first strike had been called off by the unions after four days and no change in BART management's position. In the lead-up to the October strike, management had repeatedly told the press that they were preparing to use managers and scabs to keep some of the trains running in event of a second strike.

The SEIU and ATU locals had done everything they could to ensure that their membership would be isolated in a strike, including from other union members in the area who were without a contract, like bus drivers and Oakland city workers. AFSCME, which was also in contract negotiations at the time, did not go

© World Socialist Web Site

on strike but encouraged their members to scab on SEIU and ATU—and in the case of Sheppard, to do work they were not trained to safely manage. When the accident happened on a Saturday afternoon, ATU immediately ended their pickets and by Monday both unions had called off the second strike, still without a contract.

After the SEIU and ATU voted to accept a concessions contract from BART in November, BART unilaterally amended the contract to reduce medical leave, which the ATU accepted in December and the SEIU in January.

With management determined to force through concessions and the unions determined to prevent a struggle, dangerous work practices are inevitable. Completely dwarfing the $210,000 fine are the $1 million in daily revenue of BART and the $73 million estimated daily economic cost of the BART strike.

There is every reason to believe that the moment the next labor dispute rolls around BART management will make the exact same decision to use untrained scabs, and the union leaderships will continue to accept it.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site