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RAILWAY INDUSTRY

Canadian Pacific:

The cost of success



A Canadian Pacific Rail worker inspects tracks at the company's Port Coquitlam yard east of Vancouver, B.C.

DARRYL DYCK/FOR THE GLOBE AND MAIL

In just a few years, Hunter Harrison turned a lagging railway into an industry leader. He slashed costs, tripled profit and made a fortune for shareholders. But the overhaul came at a price. Crews walked out over working conditions and managers found themselves driving freight trains. A Globe and Mail investigation finds a huge spike in cases in which employees were fired or suspended for trivial reasons – and had to fight to clear their names and win their jobs back. Eric Atkins reports on the workplace turmoil behind CP's turnaround

ERIC ATKINS

RAILWAY INDUSTRY REPORTER
THE GLOBE AND MAIL

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Late one night in October, 2015, Jeff Reid was working around a train in a Canadian Pacific Railway Ltd. yard in Brandon when he stepped in a gopher hole, twisting his ankle.

Mr. Reid, a locomotive engineer, felt immediate pain and thought that he might have sprained it. He finished his shift and, on his way out, warned the incoming train crew about the hole. The next morning, Mr. Reid phoned his supervisor to tell him what had happened, then went to a walk-in clinic to see his doctor. The gopher hole was patched up that afternoon.

A few weeks later, Mr. Reid was fired.

A 34-year employee who had gone 20 years with nothing more than a warning for missing a call to work, he was told that he had “breached the bond of trust necessary for continued employment” by not immediately reporting his injury or the safety hazard, according to a company letter submitted at an arbitration hearing in December. The railway later changed its mind and suspended him for 10 months.

The union, the Teamsters Canada Rail Conference, successfully fought Mr. Reid’s punishment at the Canadian Railway Office of Arbitration and Dispute Resolution (CROA). The arbitrator ruled his favour, ordering CP to give Mr. Reid his job back and pay his lost wages with interest, adding that the firing “lacks proportionality to the factual circumstances of this case.”

Mr. Reid’s case is not an isolated one.

In his relentless drive to cut costs, former chief executive officer Hunter Harrison overhauled the culture at Canadian Pacific. His four and a half years in the job were transformational by any measure. The revered railway executive slashed costs, boosted productivity and turned a lagging freight hauler into a lean, formidable competitor with rising profits.

Investors who bought into the railway have been huge winners: those who bought shares when Mr. Harrison arrived in 2012 after a boardroom fight have enjoyed 150-per-cent gains, not including dividends, after more than a decade of watching the stock price go sideways.

CP stock price (TSX listing)



THE GLOBE AND MAIL, SOURCE: BLOOMBERG

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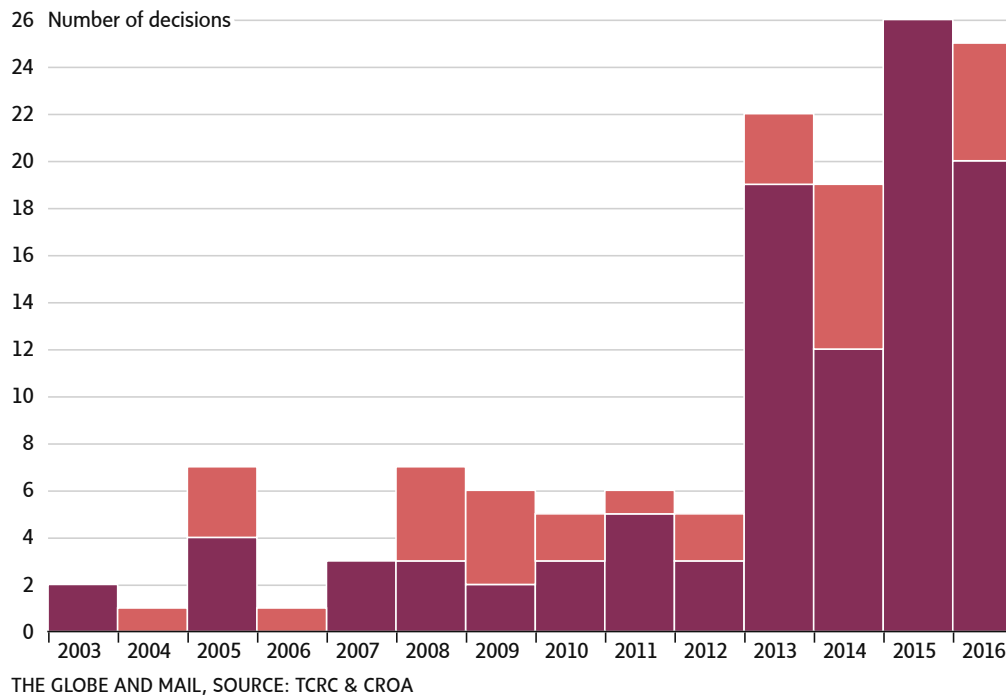
All of that, however, came at a cost. Among the changes at Calgary-based CP is a disciplinary process that the union representing train crews says is harsh and arbitrary. In an increasing number of cases over the past several years, long-serving CP employees with few disciplinary infractions have been fired for seemingly minor offences.

The Globe and Mail looked at several years' worth of CROA rulings and found a number of cases similar to Jeff Reid's: Workers fired for not wearing safety glasses; fired for urinating outdoors; fired for walking between rail cars; fired after suffering a back injury. Most got their jobs back in arbitration, a process that can take several months.

Teamsters Canada Rail Conference has fought 92 dismissals at CP since 2013, an average of 23 a year. Arbitrators found 77 of those firings were unjustified and overturned them. Between 2003 and 2012, there were just 47 dismissal hearings, an average of about five a year, the union says.

Teamsters vs. CP: How arbitrators ruled on firings

Reinstated Upheld



DATA SHARE

“They treat their employees as if they’re the enemy,” said Doug Finnsen, president of the Teamsters, which represents 3,000 CP engineers, conductors and traffic controllers. “It’s the craziest situation I’ve ever witnessed in my life.”

A number of unionized CP employees interviewed by The Globe say the financial and operational gains of which the company boasts have come at their expense. Mr. Harrison’s reign, they say, has instilled a culture of fear and intimidation that has led to soaring numbers of firings, suspensions and grievances.

Train crews staged two strikes over working conditions during Mr. Harrison’s 4 1/2-year tenure. Complaints about crew fatigue prompted Transport Canada to order CP alter some of its operations in Western Canada. And amid work stoppages and job cuts, CP managers and office workers have found themselves doing work far from their day-to-day duties: driving freight trains.

Mr. Harrison “made CP viable again, but he turned loose the hounds,” said a former official at one of a handful of unions that represent CP employees. “It was good and it was bad.”

The good, he said, was Mr. Harrison’s model of “precision railroading,” a top-to-bottom remake of CP’s train scheduling, yard layouts and asset utilization. The bad, he said, came when lower-level managers began to suspend and dismiss employees without approval from managers higher in the food chain. He said the managers – yardmasters, trainmasters and superintendents – were

under increasing pressure to adapt to Mr. Harrison's way of railroading and keep trains moving. "They believed being harsh was part of precision railroading," he said.

Said one train operator: "People don't even want to go to their manager and ask a simple question, like, 'hey, do you know about this customer? I've never been there before.' A typical response is: "Are you telling me you are unfamiliar with your job? Do you need to be retrained or do you need to be investigated for not knowing your territory?' Oh, my God, it's so brutal."

The Globe interviewed several current CP employees for this story and agreed not to identify them to protect them from being fired. All other employee names were gathered from their CROA arbitration rulings, including Mr. Reid, who could not be reached.

Mr. Harrison declined to be interviewed for this story. "Under Hunter [Harrison], CP signed longer labour deals than prior management," said a spokesman for Mr. Harrison. "Unions voted for unusually long deals showing they liked what [the company] proposed; new contracts approved with record-high approval levels."

CP declined several requests to interview its new CEO, Keith Creel, who was Mr. Harrison's understudy at CP and Canadian National Railway Co.

In an e-mailed statement, the company said: "CP is proud to say that it has negotiated successful long-term agreements with all of its unions but one, with record rates of ratification in most cases. CP will begin negotiations with the TCRC – currently the only union without a long-term agreement in place – later this year."

Former Canadian Pacific chief executive officer Hunter Harrison turned a lagging freight hauler into a lean, formidable competitor with rising profits.

NORM BETTS/BLOOMBERG

The Harrison way

Cost controls, tight scheduling and making the best use of assets are key themes of Mr. Harrison's way of railroading. It's a framework he has applied at three railways he has run – Illinois Central, CN, and since 2012, CP.

Walter Spracklin, a stock analyst at Royal Bank of Canada, said Mr. Harrison's "impressive" turnaround at CP came despite volatile demand for freight transport. He said Mr. Harrison has an "innate ability" to uncover cost inefficiencies, and the "force of personality to enact and inspire change."

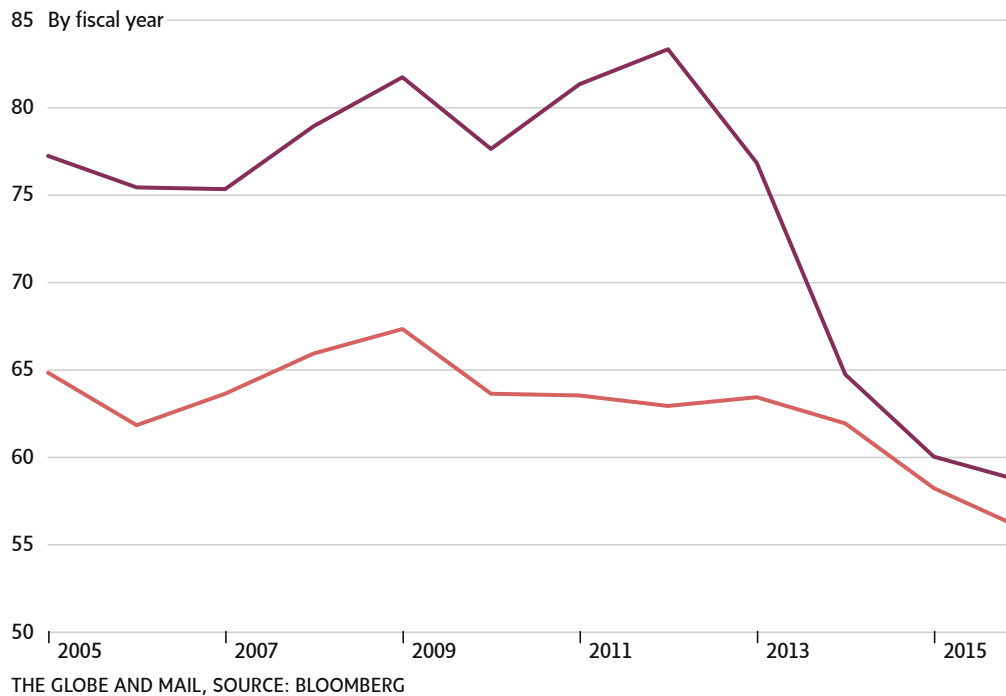
"He's never failed before," said Anthony Hatch, a rail consultant with ABH Consulting in New York.

Mr. Harrison's style, at its simplest, means running fewer, longer and faster trains on a schedule. Get rid of customers that aren't profitable. Slash the head count. Rip out unneeded track switches or sidings. Make the assets sweat.

At CP, he mothballed hundreds of locomotives and thousands of rail cars. He cut the amount of time trains spent in the yards by 19 per cent and improved network speed by 40 per cent, according to CP documents. The operating ratio, a closely watched comparison of costs versus revenue, improved to 58 per cent from an industry worst 83. About 5,500 jobs were lost, most through attrition.

Operating ratios

Canadian Pacific Railway Canadian National Railway



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His reputation as a cost-cutter has worked for him, and against him. He left CP at the end of January and is in talks for the CEO job at Florida-based railway CSX Corp., whose shareholders appear eager for his ability to squeeze profit from shrinking companies. CSX's share price has risen about 30 per cent since Mr. Harrison's plans were reported.

But his reputation also posed a roadblock to his attempts to merge CP with another U.S. railway, Norfolk Southern Corp. A long list of U.S. politicians, shippers, other railways and even the U.S. Army opposed the merger, which they said would harm service and competition.

"We believe that Canadian Pacific's short-term, cut-to-the-bone strategy could cause Norfolk Southern to lose substantial revenues from our service-sensitive customer base," Norfolk Southern CEO James Squires said in December, 2015.

When other large U.S. railways campaigned against the Norfolk Southern takeover, CP threatened legal action, another sign Mr. Harrison is unafraid of standing apart from his peers.

Under Mr. Harrison, CP refused to join dozens of other companies by contributing to a fund that compensates the families of the 47 people who died in the 2013 Lac-Mégantic oil train conflagration. CP hauled the oil from North Dakota before handing it off in Montreal, but said it bore no responsibility. He said government "overreacted" to the tragedy by imposing new regulations that would not have prevented human error.

The company has touted its operating record as the safest, even as it expanded its use of inexperienced managers to run freight trains.

People in government and the agriculture industry describe Mr. Harrison and his team as tough negotiators. CP employees who came in contact with the Memphis-born CEO describe him as focused, a visionary and gruff.



A number of unionized CP employees interviewed by The Globe say the financial and operational gains of which the company boasts have come at their expense.

DARRYL DYCK/THE CANADIAN PRESS

The human toll

North American railways have traditionally weeded out unsafe employees by handing out demerit points under what's known as the Brown system. Workers who amass a certain number of points, depending on their role, are suspended or dismissed.

It's a system intended to identify and punish dangerous employees,

OVERTURNED DISMISSALS

Conductor Fred Chamberlain was fired for urinating next to CP's MacTier station in Muskoka, Ont., in October, 2015.

Mr. Chamberlain, 51 years old and less than four years from retirement at the time, ducked out of the station after holding it for 15 minutes while the lone washroom was occupied. "I couldn't wait any longer and I had to go," Mr. Chamberlain told company investigators after being reported by a manager who witnessed his nature break. He apologized and later gave the company a doctor's note confirming he had a prostate condition that cause frequent, urgent urination. "There is no evidence to suggest he was in any way intending to be disrespectful to CP and no harm did, or was even likely to, result from his choice," wrote the arbitrator, Andrew Sims. "There is no evidence this was a high-traffic area. Even without the medical evidence, this incident was only worthy of a warning. With the medical evidence and Mr. Chamberlain's contrition, there

while offering them a chance to work off the demerits. At the same time, employees with clean records who make a rare mistake are protected from dismissal.

CP moved away from the demerit system in 2012, a shift employees say unleashed a spree of firings and suspensions without regard for prior disciplinary records.

Martin Cej, a CP spokesman, said the Brown demerit system was “antiquated” and stood in the way of the company’s need to create a “culture of safety-rules compliance that would keep our employees and the communities we operate in safe.”

“The demerit system did not create a safer environment because it allowed employees to accumulate demerits for unsafe actions and behaviours without facing any consequences or corrective actions. Over time, the demerits would simply expire,” Mr. Cej said.

Mr. Finsson, the union

was virtually no just cause for discipline.” At the time of the incident, Mr. Chamberlain was being interviewed by a company investigator over a safety violation for which he was also dismissed. That firing, which related to his having failed to release handbrakes on three rail cars, was also overturned and replaced with a suspension of four months, a medical assessment and remedial training.

Trainman Steven Stacey injured his back and couldn’t work. The company fired him 21 months later, even though Mr. Stacey had on three occasions submitted medical forms stating he was fit for modified duties.

The arbitrator gave him back his job after a hearing in Edmonton in September, 2016. In his written ruling, arbitrator Mr. Sims said Mr. Stevens and the Teamsters could have been quicker to supply functional abilities tests. But he said he was concerned the warning letter CP sent Mr. Stevens “is devoid of any explanation for the company’s position. It does not say what medical restrictions present problems and why accommodation would be inappropriate or unduly burdensome. It says nothing about what it views the current medical prognosis to be, whether or how it considered the grievor’s ability to return to work in the future, and on what basis it concluded the grievor would not be returning to active service. The employer here says it gave the grievor notice, although the lack of substance in that notice causes me concern. It also says it gave notice to the union, although that fact was not established in any definitive way.”

A rail yard foreman with 29 years’ service and no demerit points was fired for walking between two detached and moving sections of a train. The Teamsters union argued his firing in July, 2015, was “unjustified, unwarranted and excessive.”

There was 15 feet between the cars, less than the minimum 50 feet required under the operating rules. A superintendent who was watching warned him of the dangers and launched an investigation, according to evidence given at the arbitration hearing in December. The employee was fired two weeks later.

The employee, who was not named in the arbitrator’s ruling, got his job back and was handed a 15-day suspension. “The evidence shows that the [employee] took an unacceptable risk and did so just a few months after being observed to have broken the same rule,” wrote arbitrator Maureen Flynn, who called CP’s offer to replace the firing with a 90-day suspension “clearly excessive and inappropriate.”

Source: CROA filings

leader, said the elimination of the demerit point system meant employees faced harsher discipline – firings and suspensions, both of which soared under Mr. Harrison.

“A suspension, quite frankly, harms the employee and his family more than demerit points harm someone. Most employees, if the allegation is they made a mistake, they can work off the points,” Mr. Finnson said.

Railway grievances that can't be resolved locally are heard by arbitrators at the Canadian Railway Office of Arbitration, which serves CP, CN, Via Rail and various unions. CROA has its roots in the First World War era, a time when governments in Canada and the United States were eager to avoid labour disputes that would disrupt shipments of goods vital to the war effort.

Mr. Finnson said the flood of CP dismissals has overwhelmed the arbitrators' schedules, and a fired employee now faces almost a year to have his or her grievance heard. Overwhelmingly, arbitrators hearing dismissal grievances at CP have sided with the union.

Conductor Stephanie Katelnikoff of Calgary had been at CP for less than six months when her train derailed on broken track and fell into 40 Mile Creek in Banff National Park in December, 2014. One of the derailed cars contained a toxic coal by-product, which Ms. Katelnikoff inhaled. She later went to the hospital to be treated for lung irritation and sought post-incident counselling for trauma, according to evidence submitted at the CROA hearing.

CP fired her for reasons that included not immediately reporting her injury and contacting a reporter about the derailment, a violation of company policy, according to the CROA report.

However, the arbitrator discarded the company's claims. Ms. Katelnikoff was not aware the cargo that spilled was toxic, which explained her inability to connect her illness with the derailment and her delay in reporting symptoms, ruled arbitrator Maureen Flynn.

Ms. Flynn noted a supervisor named Jason Inglis called the counsellor Ms. Katelnikoff was seeing and tried to discredit her and play down the derailment's effects on her. Ms. Flynn also found Ms. Katelnikoff was being punished for filing a sexual harassment claim against a co-worker.

“Over all, the arbitrator finds that the grounds cited for Ms. Katelnikoff's

dismissal are factually inaccurate and unfounded,” Ms. Flynn ruled.

“Furthermore, those allegations appear to be a camouflage of the company’s actual reasons that are discriminatory and in bad faith.”

Train conductor Ian Lougheed was fired for not wearing safety glasses, a violation of company policy. The employee, based in Northern Ontario, said he had removed the glasses briefly to rub his eyes, the CROA report said. He had previously been disciplined for poor attendance (a firing that was overturned), and the company deemed his lack of eye protection, however brief, as a firing offence.

According to the CROA report, the union argued his firing was, among other things, “contrary to company policy,” “contrary to the arbitral principles of progressive discipline” and was handed out “in a discriminatory manner.”

The arbitrator who heard the case in December said that, although CP has the right to discipline Mr. Lougheed for not wearing the glasses, firing him went too far. “CP has not established that Mr. Lougheed’s most recent incident, when read together with his past record, justified the ultimate penalty of dismissal. Based on Mr. Lougheed’s momentary lapse, the arbitrator is satisfied that a written warning suffices to indicate the seriousness of the matter.”

One train engineer, who spoke to The Globe on condition of anonymity, said he began having joint pain but waited a few days before reporting it to his supervisor, in the hopes it would get better.

“They fired me for not reporting immediately,” he said. “The rule says you have to report an injury as soon as it happens; mine was just discomfort for a few days until I woke up and couldn’t get out of bed. I’m a 20-year employee with a super clean record. Now everyone is terrified to report any injuries or illnesses,” he said. “They’re trying to break the union by treating everyone horribly. Everyone is scared to book off when they’re tired because they could get fired for it.”

He hopes to get his job back, but faces a lengthy wait for his hearing.

CP under Mr. Harrison also sought to withdraw from CROA itself, after the company publicly criticized the ruling of arbitrator Michel Picher, who restored the job of an engineer involved in a derailment while on cocaine. Mr. Picher agreed with the union that the engineer’s long-term cocaine use was a disability and the company had a duty to accommodate him.

CP appealed his reinstatement in Quebec Superior Court.

“The Arbitrator’s decision is an outrage and, as a railroader, I am appalled we would be forced to place this employee back in the cab of a locomotive. On my watch, this individual will not operate a locomotive,” Mr. Harrison said in a statement at the time. “The decision sets a dangerous precedent and is grossly unacceptable for the safe operation of a railway.”

A judge ruled the arbitrator’s decision lacked “justification, transparency and intelligibility,” and sent it back for another hearing. (The union sought to appeal this ruling. CP would not comment as the matter is before the courts. The man remains a CP employee, but is not operating trains, a CP source said.)

CP dropped its plan to pull out of CROA but opposed Mr. Picher’s contract renewal and he no longer works for CROA. Mr. Picher declined to comment.



Cost controls, tight scheduling and making the best use of assets are key themes of Mr. Harrison’s way of railroading.

TODD KOROL/REUTERS

Collision course

The CP train was heading north and east through the Fraser River Valley on the afternoon of Dec. 11, 2016. It stretched more than a mile as it roared down the slope and around the curve near North Bend, B.C.

As the train rumbled toward what’s known as a restricting signal, the operating rules say the crew had two choices: stop the train, or slow down and be prepared to stop. They kept going, a mistake experienced railroaders in the canyon say they would never make. The signal means there’s either a landslide

or another train ahead, said one CP train operator. But it wasn't a veteran railroader at the controls of the train; it was a CP manager accompanied by another white-collar employee training to be a conductor, sources say.

The train collided with the rear end of an empty coal train that was stopped on the tracks.

"When they saw that there was a stopped train ahead, they initiated the emergency brake application and were travelling at about three miles an hour when they hit the other train," said Peter Hickli, a senior investigator with the Transportation Safety Board, who confirmed the train was operated by managers.

"They came in a little hot," said one CP railroader familiar with the collision. The stopped coal train had the brakes set and the train "stretched out." Otherwise, the impact and damage would have been greater, he said.

The collision occurred in a canyon surrounded by mountains. Railroaders say it's a section with steep grades and curves that challenge a crews' abilities to brake and watch the track ahead.

"It's very demanding territory," Mr. Hickli said from Richmond, B.C. "And, in this case, the stationary train was there because there's a crew change location there. And the train that was operating over the territory was on some curvature ... I'm sure it had some visual impediments ... It was down a 0.6 [percent] descending grade, which is difficult, as well. The canyon is very demanding that way, lots of ascending and descending grades."

Given there were no injuries or derailments and minor damage to the locomotive, the TSB did not conduct a full investigation. Transport Canada said on Thursday it is "still reviewing the incident." A non-union source at CP said the managers were disciplined, but would not say what punishment they faced. The train operator did not respond to an interview request.

Amid four years of job cuts – many through attrition – CP expanded its use of managers and office staff as train operators. "CP introduced a conductor training program and locomotive engineer training program [in 2012] for non-union employees as a critical component in the development of our people and the provision of best-in-class service to our customers," Mr. Cej, the CP spokesman, said in an e-mail.

Mr. Harrison said in 2015 the company would intensify its efforts to certify office staff as train crews, after a brief Teamsters strike earlier in the year. "Next [strike], we're going to operate 100 per cent with management

employees,” he said.

The company recently sent dozens of managers to stations in Western Canada, including Vancouver, to fill in as train crews after years of job losses have tested the company’s ability to operate all of its trains using experienced crews, sources say.

The TSB has highlighted the risks of using inexperienced train operators, and has expressed concern CP managers running trains are less experienced and receive less training than unionized crews. CP allows managers to “self-evaluate to determine when they are sufficiently familiar with a territory to begin working trains as an active crew member,” the TSB said in July, in a report on a 2015 incident involving CP managers driving a train.

In that case, three managers operating a CP train rolled eight kilometres five miles on unauthorized track near Cranbrook, B.C., before a traffic controller ordered them to halt. “Although qualified for their respective positions, the management crew members were not familiar with the territory,” said the TSB in a report on the incident. Manager crews with little to no experience are routinely operating trains through the mountainous routes of B.C., hauling cargo that includes dangerous goods such as propane and oil, union members in Western Canada say.

Mr. Cej said all CP train operators “must pass the required tests, be rules-qualified and meet all the standards for train operations. ... Whether an employee is unionized or a management employee, nobody gets certified as a conductor or locomotive engineer until they achieve all the necessary requirements.”

“It must be noted that management crews are only used to move our customers’ goods and to keep the economy moving when unionized crews are already fully utilized,” he said. “This generally occurs only in rare circumstances when factors outside of CP’s control create unpredictable spikes in demand, such as extreme weather events, system disruptions or unexpected changes in customer requirements. In 2016, CP used unionized crews for more than 99.7 per cent of all crew starts across the system and CP is hiring over 200 conductors this quarter across Canada.”

Mr. Cej said CP has been the safest major railway in North America, measured by accident frequency, for 11 years. Under Mr. Harrison, the train accident frequency improved by 40 per cent to 0.97 per million train miles in 2016 from 1.69 in 2012.

The Globe interviewed one unionized CP conductor who said he has trained office staff to run locomotives. He said he decided it is best to be assured inexperienced people can be shown how to safely do a dangerous job, even if it means he becomes known as a “union buster.”

“They’re scared as hell,” he said. “I’ve had manager trainees, I’m talking office people, not trainmasters who worked in the trade. ... These are 40-year-olds, overweight and sitting at a desk their whole career. They can hardly hold on to the side of a train let alone line a switch. There are tears in their eyes ... and rightfully so. That equipment is unforgiving, and it’s big. These managers are just being forced to do things they’re not capable of. They’re just flustered.”

Patrick Waldron, a spokesman for rival CN, said the Montreal-based company trains managers as locomotive crews to give them a fuller understanding of the business. “Management crews are used periodically. They are not used as part of a regular operating plan.”

The shortage of train crews contributed to CP’s poor grain hauling service in late 2016 compared with that of CN, said Wade Sobkowich, executive director of the Western Grain Elevator Association, which represents six major grain handling companies, including Cargill and Richardson International.

“We understand CP has had some labour challenges, especially on the West Coast. ... I’ve been told anecdotally they’ve been using managers to run trains because they’ve lost some employees,” Mr. Sobkowich said in an interview. “They’ve had a lot of experienced people quit and it’s different when you’ve got new people learning the ropes. They’re not perhaps as knowledgeable and efficient as those who used to be there.”

Amid complaints from train crews, Transport Canada last year ordered CP to change some of its operations in parts of Western Canada to reduce operator fatigue. CP on certain runs was “creating conditions which are causing fatigue to accumulate in operating crews, thereby reducing their alertness, while in care and control of trains,” Transport Canada said. CP was ordered to include transit time to and from the crews’ rest facility as time on duty; allow some crews to book eight hours’ undisturbed rest if their train is cancelled; and provide crews with more information on train lineups so they can better predict their shifts.

The TSB has added train crew fatigue to its list of safety problems it is pushing railways to address, a list that includes flammable liquids. “[F]atigue continues to pose a risk to the safe operation of trains, particularly freight trains,” said the TSB, referring to the entire Canadian industry.

A CP operating bulletin for train crews in Southern Ontario said that, effective Feb. 1, 2017, employees who take two or more sick days a month may face “disciplinary action.” The memo obtained by The Globe goes on to list other absences that “will be handled as more serious offences,” including booking sick after accepting a shift or taking sick days on weekends or after vacation and rest days. “Medical documentation will not be accepted to excuse these absence categories except in extraordinary circumstances involving a medical emergency.” (Train crews are paid by the mile, and don’t get paid unless they work.)

When told of the memo, Mr. Finnson said it is contrary to labour laws.

“This is Hunter Harrison’s guiding philosophy: Tie up the union defending rights they already have, so their demands at the bargaining table will likely be limited to resolving the outstanding disputes over the rights they have right now,” Mr. Finnson said. “So we’re going to spend a lot of money just arguing that CP can’t just arbitrarily dismiss medical information. We’re going to have all our time spent reacquiring all the rights we already have.”



In his relentless drive to cut costs, former chief executive officer Hunter Harrison overhauled the culture at Canadian Pacific.

PETER POWER/FOR THE GLOBE AND MAIL

Spy game

As Mr. Harrison and his team retooled the company’s operations, they also reshaped parts of the company’s container shipping division, reducing layers of management and, for the first time, paying commission to sales people. “Our

goal is to encourage active, aggressive efforts to take that product to the marketplace,” the company said in its 2014 annual report. “To my knowledge, no railroad has ever done that,” Mr. Harrison said at the time.

Within two years, the same sales division would find itself at the centre of an espionage lawsuit filed by rival CN, a much bigger railway and a formidable competitor. CN accused CP of going after its customers using confidential CN information. The customer lists, including contract prices and expiration dates, were improperly taken by two CN salesman before they left for jobs at CP, according to both sides.

CN argued the removal and use of its secret customer information was anti-competitive, “unlawful” and a violation of the confidentiality agreement its employees signed. CP formed sales teams of “hunters” to target the CN clients, CN alleged in court documents.

It also uncovered CP e-mails and text messages, including one from Mr. Creel, then CP’s operating chief, in which he tells a sales manager there were “no restrictions” on using the CN client lists. “It’s a competitive world. Free market,” he says.

A lawyer for CP said in court the removal and use of the client lists should not have happened and did not reflect how CP conducts business. CP settled the lawsuit in the summer of 2016, a year after it was filed, for \$25-million.

In an interview with The Globe last year, Mr. Harrison said the culture shift he had overseen had nothing to do with the actions that led to the legal battle. But CP wasted little time dealing with those involved. The two former CN salesmen are gone and CP “reassigned” vice-president of intermodal sales Jacqueline Coyle and sales vice-president Timothy Marsh, according to court documents.

Mr. Creel, meanwhile, stepped into the CEO job on Jan. 31. His move comes five months earlier than planned, after Mr. Harrison left CP to pursue the CEO job at CSX. Mr. Creel is a long-time deputy of Mr. Harrison, and analysts are confident in his ability to continue Mr. Harrison’s operational mission, even as some note the easiest improvements at what was a weak company have been made.

“We have full confidence in Mr Creel and his team’s ability to lead CP,” said Benoit Poirier, a stock analyst with Desjardins Capital Markets.

“Operationally, this still a strong company,” said Christian Wetherbee, a Citi Group analyst.

Mr. Harrison’s arrival at CSX, based in Jacksonville, Fla., is made more likely due to his habit of boosting a railway’s profits and share price. And he is working with activist investor Paul Hilal, a former partner with Pershing Square Capital, the U.S. hedge fund that installed him at CP in 2012 after a proxy fight.

One CSX railroader in the United States said employees are wary of a new boss with a reputation for slashing costs and head count. Workers are already feeling the pinch of CSX’s recent cost cuts that followed a steep decline in coal shipments, said the engineer, who did not want to be named to protect his job.

“Simply put, the rank-and-file employees are feeling vulnerable,” he said.

“Hunter Harrison has a long-standing reputation as a foe to labour forces. I’ve seen his name written on many Canadian locomotive bathroom walls for many years. He will come to CSX and start closing yards, selling off short lines, and gutting our infrastructure. This serves as a short-sighted way to increase dividends, but does not serve the best interests of our country.”

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