

Quebec charges employees, not owners, of railroad in Lac-Mégantic tragedy

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Three former Montreal, Maine & Atlantic Railway employees charged with criminal negligence were brought before a local Quebec court May 13. The charges stem from the runaway derailment and explosion of a crude oil train in downtown Lac-Mégantic, Quebec, that left 47 dead last July.

Thomas Harding, the engineer of the train prior to the event, Jean Demaître, MMA's railway traffic controller, and Richard Labrie, MMA's manager of train operations, were each charged with 47 counts—one for each of the victims.

Canadian authorities have worked up a witchhunt atmosphere towards the employees to turn attention away from corporate and government actions that lie at the root of the tragedy. Neither Ed Burkhardt, the CEO and principal shareholder of MMA Railroad, nor Irving Oil have been charged.

For months, Harding's lawyer, Thomas Walsh, had stated to police that if charged, Harding, a long-time resident of the region, would promptly turn himself in. Instead, on May 12 a Sûreté du Québec SWAT team descended on his home as he, his son, and a friend were painting a boat. All three were forced to lie on the ground while the heavily armed officers arrested Harding.

The next day, the three former MMA employees were "perp walked" into the Lac-Mégantic courtroom in handcuffs past crowds and cameras. This is an unusual move for the Canadian judicial system, and it provides obvious bias against the defendants prior to the trial. Yet the only outburst from the crowd was from Ghislain Champagne, whose 36-year-old daughter Karine died in the disaster. As the three walked by, Ghislain yelled, "It's not them we want!"

Ghislain's wife, Danielle Lachance Champagne, told *The Montreal Gazette* that, "the big boss—he should be

first. He was the big boss of the MMA and he came here with this attitude like he wasn't affected by what happened, by all these people whose lives were lost." Other residents in the town shared similar thoughts to the press.

The real cause of the runaway train and derailment has yet to be fully clarified. But it is clear that the disaster was the outcome of MMA management decisions and government regulatory practices, not simply the actions of MMA employees on the ground.

MMA acquired the trackage through Lac-Mégantic from Canadian Pacific Railroad, one of Canada's two large railroads. Canadian Pacific considered it unprofitable and left it in a poor state. From the start, MMA's profits depended on vigorously cutting expenses, not investment into infrastructure. To this end, MMA CEO Ed Burkhardt implemented one-man crews on trains, rather than two-man crews.

Tom Harding was the one-man crew on a 72-car train of crude oil from North Dakota. He stopped the train 6.8 miles west of Lac-Mégantic at the end of his shift on the night of July 5. MMA management chose for the loaded train to be parked on a significant grade, which increases the effort needed to secure it, but saves fuel in getting the train moving again. In addition to applying air brakes, Harding had to dismount from the train and go car-to-car to manually engage hand-brakes on several cars of the train—a task that a conductor on a two-man crew would have done.

Harding then departed for his hotel to take rest while the train awaited another crew. MMA made the decision to allow the loaded oil train to sit unattended. Shortly after leaving, a fire was reported on one of the train's old, used engines to the MMA's rail traffic controller, Richard Labrie. The Nantes fire department responded and shut down the locomotive. This was

necessary to extinguish the fire, but may also have released the airbrakes, as the engine was no longer powering them.

After the fire department and another MMA employee left, the train began to move, eventually derailling at high speed in Lac-Mégantic, wiping out much of the center of the town. CEO Ed Burkhardt continues to insist that Engineer Harding is solely at fault, claiming he did not use enough handbrakes to secure the train.

Prior to the accident, crude oil traffic—booming on American and Canadian rails—was not thought to be especially volatile. Several accidents in the last year have shown otherwise. An Irving Oil refinery in St. John, New Brunswick, was the intended recipient of the oil that spilled and exploded in Lac-Mégantic. *The Globe and Mail* revealed an industry presentation given in June 2013 noted that the refinery was receiving tank cars that contained “contaminants,” “sludge,” and other “unknown substances.”

The presentation concluded that the makeup of the oil was not being properly identified and tested prior to shipment, including the traffic that was travelling along MMA’s rails through Lac-Mégantic. Despite that, Irving Oil continued to accept shipments. Furthermore, the tank cars carrying the oil were often “Dot-111” cars built before more stringent safety standards were in force and which easily puncture in derailments. (See also: North Dakota train explosion raises questions about oil transport safety)

The causes of the accident are clearly complex—oil that was not properly labeled for its volatility, maintenance issues with an old engine, a lack of signaling on the railroad that could have alerted MMA that the train was moving, MMA policy that allowed trains to be left unattended on a grade, a cost-cutting policy of one man crews, government allowance of such policies, and whatever mistakes individual MMA employees may have made.

By using a SWAT team to arrest Harding and making a show of bringing the accused to court, the authorities are working to foist the blame for the disaster onto MMA employees while obscuring the role of MMA management, the oil industry, and the government and its deregulation drive.

Nearly a year after the deadly event, families of the victims have yet to receive compensation. MMA filed

for bankruptcy, with CEO Ed Burkhardt declaring last December that “I was also a victim of this whole thing.” In an interview with CBC, he added that, “It’s reduced me from being a fairly well-off guy to one that’s just getting by. But OK, that’s what happens.”

Burkhardt continues to own several other rail ventures around the world. MMA’s assets have been sold to the newly formed Central Maine and Quebec Railway, which is owned by a subsidiary of Fortress Investment Group, a large operator of small and medium sized US railroads. The railroad plans to upgrade MMA trackage in Quebec and Maine with a goal of hauling oil again by 2016.



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