

# Government and corporate officials continue to deflect blame for Lac-Mégantic train disaster

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One year after the rail disaster in Lac-Mégantic, both Quebec government and corporate officials continue to refuse to accept any responsibility for the catastrophe that took the lives of 47 townspeople.

Last July, the town's central core was incinerated, when an unmanned Montreal, Maine and Atlantic (MMA) runaway train comprised of scores of oil tankers careened down a sharp incline, derailed and exploded. It was determined that the parked train had begun its fatal descent into the town due to a faulty or inadequate braking process exacerbated by a fire in the lead locomotive.

Describing the subsequent derailment and explosion in the town during last week's memorial remembrance, one first responder said it was "the largest fire any of us has ever seen. You had fire coming out of the manholes, the lake was on fire and you had the devastation in the buildings. It looked like World War II." Most of the dead were burned beyond all recognition. It took weeks to identify the bodies.

In a recent interview with the Montreal daily *La Presse*, Lisa Raitt, the current Minister for Transport in the federal government of Conservative Prime Minister Stephen Harper, deflected criticism that her government's cost cutting and deregulation of the railway industry contributed to the disaster. "This is a case where someone did not respect the rules. A company, an individual, whatever. That led to this tragedy."

Raitt's statement is of a piece with the Harper government's constant insistence that, despite the role of the federal government as the leading regulator of rail safety in Canada, one of the largest railway disasters in the country's history had absolutely nothing to do with their policies and processes. Over the past year, the government has persistently refused calls for a public inquiry into the catastrophe.

Raitt's comments dovetail with the province's prosecutorial reaction to the disaster. Last May, police charged three low-ranking MMA employees—engineer Thomas Harding, train operations manager Jean Demaitre and rail traffic controller, Richard Labrie—with 47 counts of criminal negligence causing death.

By using a SWAT team to arrest the unresisting Harding at

his own home and then staging a notorious "perp walk" in bringing the three handcuffed accused to court, the authorities worked to foist the blame for the disaster onto MMA employees while obscuring the role of MMA executives, the oil industry, and the government and its deregulation drive.

Townspeople, however, were not so easily fooled. As the accused were hustled into the courthouse last spring, 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.

For his own part, Edward Burkhardt, the chairman of the railway at the time of the conflagration, told reporters last month that the provincial police had got it right by refusing to charge any senior officials of the company. The engineer, he insisted, made "plenty of mistakes" but management was entirely blameless. "You know, people wanted me charged. They wanted...God only knows who they wanted charged. But the fact is...both Canada and the United States follow the law."

In statements to the police unsealed last month, MMA workers said that they had previously voiced concerns about their employer's use of impaired, second-hand locomotives, poor maintenance practices, dangerously deteriorated track, a 75 percent cut to the number of workers maintaining tracks, the growing preponderance of highly combustible cargoes and the company's one-person crew policy.

MMA ultimately filed for bankruptcy, with CEO Ed Burkhardt complaining 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 direct and hold ownership stakes in several other rail ventures around the world. MMA’s assets have since 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.

Since the disaster, the federal government has announced several measures that do not adequately address safety concerns raised by the incident at Lac-Mégantic. One-person crews are no longer permitted on trains carrying hazardous material and they can no longer be parked on main tracks (although such trains can continue to be left unattended overnight). Speed limits for locomotives pulling older model tanker cars have been reduced, braking standards clarified, and the “hazard” classification of highly flammable crude oil has been upgraded. However, the Safety Management System, which forms the centerpiece of Transport Canada policy, still allows companies to regulate themselves.

The Quebec tragedy has given rise to a series of investigations and class-action lawsuits in Canada that have further revealed the consistent privileging of corporate profits over basic safety precautions by various governments and regulatory bodies. A February CBC report revealed how freight carriers had asked the Canadian federal government to remove the requirement to inspect railcars carrying dangerous goods just one month before the horrific events at Lac-Mégantic. Although the rail companies quickly withdrew their request in the wake of the tragedy, it has been revealed that for years the government has secretly granted them special exemptions from safety regulations.

Among these special dispensations was a deferment of a deadline for rail companies to place reflective strips on all railcars so that they could be more easily spotted at night; the right for CP Rail to run a British Columbia coal train without a main-brake test; and permission for CN Rail to run trains for six months through the city of Winnipeg without a full complement of brakes.

In March, the Transportation Safety Board announced that crude oil samples taken from undamaged tanker cars involved in the Lac-Mégantic disaster were much more volatile than most other oil types normally shipped by rail. This particular light crude oil, gleaned from shale wells in North Dakota’s Bakken Field, had a much lower flash point for the ignition of vapours.

The shipment on the train that exploded in Lac-Mégantic was not properly labeled as a more dangerous and flammable product than other heavier oil cargoes. The test results, however, only confirmed what has long been a well-known fact in the industry—that the Bakken crude is one of the most volatile carbon fuels in the world. Indeed, it is so combustible that workers in the shale fields have pumped it directly into their

cars’ gas tanks.

In a recent interview, former MMA CEO Burkhardt stated that, despite this common knowledge amongst workers in the Bakken fields, he and his executives had no idea of the dangers posed. Transport Canada continues to block disclosure of how much Bakken shale oil is shipped through Canada, claiming that disclosure of such information to vulnerable towns and cities along the rail routes is not warranted, since it is “commercially sensitive” to the rail companies.

Transport officials on both sides of the border are continuing to drag their feet over proposals to replace the prone-to-puncture DOT-111 tanker car—the most heavily used vehicle type in the industry (and that used by MMA on its ill-fated Lac-Mégantic train). With companies complaining of the expense involved in eliminating the DOT-111s, the Canadian government has stipulated that they only need be replaced (or retrofitted) with newer, thicker-walled tanker cars by 2017.

Safety experts in both Canada and the United States, however, have warned that the newer version of the DOT-111 tanker car is still not adequate to prevent the type of catastrophe that befell Lac-Mégantic. In any case, of 228,000 DOT-111 cars currently in service, only about 26,000 cars have been retrofitted or replaced. Projections show that by the end of 2015, only 52,000 cars will have been retrofitted.

In a class-action lawsuit filed against the federal government, survivors of the Lac-Mégantic tragedy have alleged that Transport Canada turned a blind eye to persistent safety violations by the MMA Railway. The court action states that the Transportation Safety Board was aware of 129 accidents involving MMA rolling stock and that MMA was “the most-unsafe railway operator in North America.” The lawsuit goes on to allege that Transport Canada failed to prevent MMA dangerous-goods shipping despite knowledge of the company’s “deplorable” track conditions; that Transport Canada permitted the use of a single train operator despite “red flags” around this procedure; that Transport Canada was aware of previous instances where insufficient braking had been used on MMA trains; and that regulatory bodies failed to ensure MMA carried adequate accident insurance.



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