

# Safety Board confirms Canadian government culpability in Lac-Mégantic rail disaster

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After the Transportation Safety Board (TSB) issued a report that confirmed lax standards and weak oversight by both the Montreal, Maine and Atlantic railway and the federal government played a major role last year's rail disaster in Lac-Mégantic, Quebec, lawyers representing three workers arrested after the catastrophe demanded that all charges against them be dropped.

"It should now be obvious that the charges against each of these workers no longer have their place. To continue along this path would not serve the public interest and would in no way help prevent such an incident from happening again," stated lawyer Thomas Walsh. He and public defender Marc-Antoine Cloutier also called for a public inquiry into the tragedy.

In July, 2013 forty-seven people were killed and the town's central core incinerated when an unmanned, runaway Montreal, Maine and Atlantic (MMA) train comprised of scores of oil tankers careened down a sharp incline, derailed and exploded. Most of the dead were burned beyond all recognition. It took weeks to identify the bodies.

Subsequently, three low-ranking employees—train engineer Thomas Harding, train operations manager Jean Demaitre, and rail traffic controller Richard Labrie—were charged with 47 counts of criminal negligence causing death. They each face up to 25 years in prison.

Since the disaster, Conservative Prime Minister Stephen Harper and Minister for Transport, Lisa Raitt have consistently deflected criticism that their government's cost-cutting and deregulation of the railways contributed in any way to the incineration of the town.

The 181-page TSB report produces a veritable laundry list of regulatory failures by Transport Canada, the federal department ostensibly responsible for ensuring the safety of Canada's railway system, and exposes a culture of profit before safety at the MMA railroad.

The investigation found that a number of factors directly

contributed to the catastrophe. The engineer of the train, which had a crew consisting of just one-person, engaged only seven hand-brakes before retiring to a hotel for the night. The train, according to a company policy designed to increase productivity, was parked while still running on the main rail line, not a siding, and, with the government's permission, left unattended.

The engineer believed the hand-brakes would supplement the locomotive's air-brake system in holding the train in place. However, a fire on a locomotive—the result of inadequate maintenance—forced emergency responders to shut the train off in the middle of the night, thereby disabling the air-brake system.

The TSB found that Transport Canada gave permission for MMA to institute one-man train crews despite vociferous objections from a whole host of independent safety experts, the United Steel Workers union, and the agency's own local Montreal office.

Due to a twenty-year history of aggressive deregulation of the rail industry by successive Liberal and Conservative governments, a weak safety culture was cultivated in the railroad industry and at Transport Canada. Recent stringent cuts by the Harper government to regulatory funding further undermined the system.

Today, railway companies largely carry out their own inspections of processes, equipment and infrastructure. This so-called self-regulation is simply a carte blanche for corporations to continue to cut safety corners to burnish their bottom lines. Similar practices have been instituted in Canada's food safety system, resulting in repeated outbreaks of food-borne illnesses and deaths over the past decade.

Thus, the TSB report found that despite the horrendous condition of MMA tracks, Transport Canada did not declare the trackage "excepted" which would have required MMA to reduce train speeds drastically, thereby cutting significantly into its profit calculations. Moreover,

MMA—which had a long and consistent history of egregious safety violations (206 reported accidents from 2000-2013)—was never once sanctioned by regulators. Nor was the railway singled out for more vigorous oversight. The MMA “Safety Management System” plan sat for seven years in Transport Canada offices before finally being approved in 2010. Even then, many employees of the railroad were unaware of the plan’s existence.

Despite a massive increase in the number of trains carrying volatile fuel shipments—largely from the shale oil fields in Bakken, North Dakota—Transport Canada internal documents, reviewed by the TSB, show that the Ministry deliberately ignored the safety ramifications. There was no increase in inspections, nor any serious consideration of the implications of numerous reports pointing to the high combustibility of shale oil.

Warnings from industry experts that the outmoded, single-shell DOT-111 tanker cars were very vulnerable to an explosive event should they be punctured in a derailment or other accident were also ignored.

In 2011 an auditor-general’s report concluded, “Transport Canada has not designed and implemented the management practices needed to effectively monitor regulatory compliance” of dangerous goods transport. The government’s response to the finding was to slash 30 percent from the Transportation Ministry budget.

As for MMA management, it pleaded ignorance of the nature of the oil shipments that became an increasingly vital part of its business.

The TSB report flies in the face of statements by government and company officials disclaiming any responsibility for Canada’s worst rail disaster in more than a century. Former MMA chairman Ed Burkett famously fired engineer Harding on the spot, subsequently proclaiming, “The fact is, this a failure of one individual”. MMA ultimately filed for bankruptcy, with Burkett complaining last December that, “I was also a victim of this whole thing.”

Transport Minister Lisa Raitt has similarly attempted to shift the blame. “This is a case where someone did not respect the rules,” she stated, “a company, an individual, whatever. That led to this tragedy.”

Burkett 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.

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.

There is an iconic moment captured by television cameras two days after the explosion in Lac-Mégantic. When asked to explain the cause of the tragedy, a shell-shocked resident of the town turned to the bank of cameras and screamed, “Money! Money! Money!” This is a sentiment that more and more percolates in the consciousness of working people across the country.

The TSB report briefly remarked upon the cozy relationship between the railway companies and Transport Canada but, pointedly, made no recommendations on this central issue. It was left up to the Mayor of Lac-Mégantic to point to some of the conclusions that the TSB refused to draw: “We demand that finances no longer be at the heart of regulations,” said Colette Roy-Laroche. “Transport Canada shouldn’t give in to railway blackmail when they threaten to interrupt service when we don’t do everything they want.”



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