Investigations into Lac-Mégantic rail disaster show government culpability

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Small town mayors from Canada and the United States appeared before American transport officials in Washington this past week to highlight inadequate safety regulations on both sides of the border that recklessly endanger the lives of people living near railway lines.

The delegation was led by Colette Roy-Laroche, mayor of the Quebec town of Lac-Mégantic. Last July, 47 people were killed and the town's central core was incinerated, when an unmanned Montreal, Maine and Atlantic (MMA) runaway train comprised of scores of oil tankers careened into Lac-Mégantic, 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.

The Quebec tragedy has given rise to a series of investigations and class-action law suits in Canada that have further revealed the consistent privileging of corporate profits over basic safety precautions by various governments and regulatory bodies. A CBC report last month 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.

Last week, 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 many 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.

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 retro-fitted) with newer, thicker-walled tanker cars when they are retired from service.

Safety experts in both Canada and the United States, however, have warned that the newer version of the DOT-111tanker 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 law suit 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 MM&A Railway. The court action states that the Transportation Safety Board was aware of 129 accidents involving MM&A rolling stock and that MM&A was "the most-unsafe railway operator in North America." The law suit goes on to allege that Transport Canada failed to prevent MM&A 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 MM&A trains; and that regulatory bodies failed to ensure MM&A carried adequate accident insurance.

Shortly after last summer's tragedy, MM&A filed for bankruptcy and last January the company was sold to a New York-based investment group. To date, over $400 million of government funds have been spent cleaning up Lac-Mégantic and on victim assistance. Tens of millions more will be required to put the town back on its feet.

Today about 10 percent of all North American oil is moved by rail, up from two percent only five years ago. According to the Canadian Railway Association, shipments of oil by railcar tanker in Canada have increased from 500 carloads in 2009 to about 140,000 for 2013—an increase of 28,000 percent.

Canadian rail companies have boosted profit margins on the heels of this transport boom. Canadian Pacific Railways increased its average revenue per car by 12 percent last year as a result of increased oil transport contracts. Canadian National Railways gained 14 percent on the Toronto Stock Exchange last year.

Railroad safety in Canada has been deregulated under successive Liberal and Conservative governments since the 1990s. 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 so as 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.

Despite the dramatic increase in the shipment of hazardous materials, funding to Transport Canada for spot inspections has been slashed. The overall budget allocated by the Harper Conservatives to the Transportation Department has been reduced by 30 percent in the last year alone. 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.

Recommendations by safety boards on both sides of the border that rail companies update safety technologies are not implemented. Technological advances, for instance, allow for the installation of automatic switching devices that would enable unauthorized trains—like the runaway Lac-Mégantic train—to be redirected to safe-port sidings.

Profitability pressures meanwhile cause the railways to press for "lean" operations with reduced staffing and more onerous work schedules and to skimp on the upkeep of physical infrastructure. The runaway train at Lac-Mégantic, for instance, was overseen by a lone engineer in charge of 72 cars and five locomotives. He had parked the train for the night on aging tracks after a grueling shift and, in accordance with policy, apparently left the train unattended with a locomotive engine still partially operational to maintain air-brake pressure. The loss of air-brake pressure, perhaps due to a reported fire on the unattended running locomotive, is a possible cause for the train eventually breaking away and careening into Lac-Mégantic.

The continuing revelations arising from investigation of the Lac-Mégantic disaster prompted one Canadian mayor, Mike Bradley of Sarnia, Ontario, a city located at the center of the country's petrochemical, pipeline and railroad industries, to speak out. He told reporters that persistent cost-cutting and risk-taking were part and parcel of a strategy to increase shareholder profits at the expense of safety: "These railcars are rolling through the hearts of communities right across the country and the level of anxiety is very high. Transport Canada needs to become the watchdog, not the lapdog of the rail industry. My own observation from over the years is there's almost an incestuous relationship between the industry, Transport Canada and the government of the day."