

What Happened in Last Summer's Oil Train Disaster in Quebec That Killed 47

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Details of the events leading to last July's oil train disaster in Lac Mégantic, Quebec, have been made public for the first time. They reinforce an existing portrait of the accident as a perfect storm of corporate malfeasance.

The information comes from a freedom of information request by the Montreal English-language daily *The Gazette* and the French daily *Journal de Montréal*. The two newspapers obtained a 29-page document prepared by Quebec provincial police in its application for a search warrant of the offices of Montreal, Maine and Atlantic Railway (MMA) several weeks following the disaster.

On the night of July 5-6, 2013, an un-crewed runaway crude oil train derailed and exploded in the center of the town of Lac Mégantic, killing 47 people.

A heavily redacted version of the police document was given up in February of this year. *The Gazette's* Monique Beaudin reports in a [June 16 article](#) on the content of the full document. We learn in the [uncensored version](#) (French language):

- An insufficient number of handbrakes - seven - were applied by the train engineer, Thomas Harding, when he stationed the 73-wagon train late on July 5 and retired for the night in a local motel. An expert report prepared for the SQ (the police) estimates that hand brakes should have been applied to at least 15 wagons and to the five locomotives. Company guidelines called for handbrakes on nine wagons in that length of train.

- One locomotive was left to idle overnight by Harding in order to hold the train's air brakes. But it was in serious disrepair and was a serious fire hazard because it was spewing lubricating oil from its exhaust.
- That locomotive caught fire at approximately 11:30 PM, July 5. Local volunteer firefighters arrived to extinguish the fire. In the course of doing so, they shut down the faulty locomotive. That left the air brake pressure to slowly dissipate.
- An MMA employee who inspected the train was the last to leave it that night, just before 1 AM - unattended and with all the locomotives shut off. The employee was not qualified to inspect the train and decide how to leave it. Shortly after he left, the train began its deadly journey.
- Harding had offered to company officials to oversee the shutdown of the train after the fire was extinguished, but was told he wasn't needed.
- The MMA's track and rolling equipment were seriously degraded and neglected. Company and Transport Canada officials examined the wagons of the fateful train earlier on July 5, but they didn't inspect the locomotives. The MMA's railway-equipment inspection manager told police the company had only three track maintenance employees and did not have enough materials to properly maintain the network.

Beaudin **reported in The Gazette the following day** that MMA employees told police they feared a catastrophe due to the poor conditions of the company's tracks and equipment and the petroleum products it was carrying. Instead of repairing deteriorated tracks, for example, the MMA would instead lower authorized speeds, to as low as 5 mph on some stretches of its line! MMA's tracks passed Transport Canada inspections.

Employees also cited as dangerous the company's practice of one-person crews. For years, MMA sought permission from Transport Canada to operate trains with one person only. It finally received permission in 2012.

MMA was transporting crude oil from the Bakken fields of North Dakota as part of an operation begun in 2012. Irving Oil of Saint John, New Brunswick, operates Canada's largest refinery in that city. It also has a large gasoline retail distribution network in eastern Canada and northeast United States. It contracted with CP Rail to bring North Dakota oil as far east as Montreal. From there, the MMA would bring the oil trains to Irving's Southern New Brunswick Railway terminus in northern Maine.

The MMA line was part of the historic line of Canadian Pacific Railroad (CP Rail) connecting Montreal and Atlantic Canada. In the early 1990s, CP finally received federal government permission to sell it. A succession of short line owners have operated it since.

The oil transport operation began a little more than one year before the disaster happened. The high volatility of the crude oil being carried was never reported publicly. North Dakota fracked crude, it turns out, is notorious for having a volatility resembling refined gasoline. Higher-ups in the oil train consortium didn't ask questions or kept the information under wraps.

The MMA and three of its employees - engineer Thomas Harding, rail-traffic controller Richard Labrie and train-operations manager Jean Demaître - are charged with 47 counts of criminal negligence causing death. They made a brief court appearance on May 13 and were released on bail. The trial resumes on Sept 11.

The vast expansion of oil by rail that is taking place in North America is fueled by the expansion plans of Alberta tar sands producers and fracked oil producers in North Dakota, Texas and other states. The shifting vagaries of international crude oil prices are making North American crude and bitumen price competitive, even if they are obliged to use the more expensive rail transport option. (For background into oil industry expansion, see the note at the end of this article and my June 3 article, "[Oil by rail on trial in Lac Mégantic, Quebec and in Maine.](#)")

But crude oil and bitumen production share two common obstacles. They are landlocked and somehow, some way, must get to refineries or ocean export terminals overland. And they are facing rising environmental opposition because more oil production leads to more greenhouse gas emissions, and the planet's biosphere just cannot absorb that without getting hotter.

Compared to pipelines, railways have far fewer regulations governing what they carry and how. There is little opportunity for scrutiny of crude by rail, still less for stopping it. The dismantling of railway safety regulation by successive US and Canadian governments over the past 30 years adds to the danger. So crude oil by rail operates as a kind of wily pressure relief valve on an at-capacity oil pipeline network.

Rail Secrecy in North America

The tragedy at Lac Mégantic and the string of crude oil train derailments since then have greatly increased public alarm. They have brought to the fore demands by communities, emergency planners and emergency responders for disclosure of what dangerous cargos are being transported by rail, and in what volumes. But the railways are resisting. They say they will provide information to emergency planners and responders, but not to public interest advocates, the media or the general public. They are demanding that their permission be sought before any information be released more widely.

Government officials are divided on the matter. The states of Arkansas, Kansas and Louisiana have signed the nondisclosure agreements with railways. **California** says it won't release information to the public, though some lawmakers are pressing for some forms of disclosure. A **new report** by the Natural Resources Defense Council says some 4 million people in the state live in danger zones along rail lines where oil train traffic is growing fast.

The **state of Oregon** is undecided what to do. **Washington state** governor Jay Inslee wants the release of certain information and wants guidelines put in place. He has suggested that the railways take the matter to court if they disagree with that course.

Montana seems to be going head to head with BNSF over the matter, saying it won't abide a secrecy agreement the railway insists on imposing. Wisconsin has reportedly said the same. BNSF is the largest carrier of crude oil in North America.

The US Department of Transportation announced recently that it does not consider oil train information to be a security concern that warrants denying information to the public. But it says restrictions may be warranted for commercial reasons. And Mathew Philips of Bloomberg News **reports** that the DOT advises states to "treat this data as confidential, providing it only to those with a need-to-know."

US rail safety analyst Fred Millar challenges the rail companies' arguing that information should be kept secret for security reasons. He told Bloomberg that oil trains "are like elephants tiptoeing through tulip fields".

"They're already out in the open. Keeping them secret is a fantasy." He says rail companies want data locked up for a different reason - to dampen calls for greater regulation.

Canada's Minister of Transport Lisa Raitt has been touted by media and politicians in the US and Canada as a paragon of rail safety because she announced a few months ago that certain older models of the DOT 111 model wagons that carry crude must be phased out on Canada's rails within three years. In reality, she is in lock-step with railroad wishes. She announced in Toronto on June 20 that **secrecy will continue to prevail** in Canada over the transport of petroleum products, chlorine and other dangerous chemicals. Current rules in Canada only provide for after-the-fact reporting to communities of dangerous products moving through by rail.

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Raitt's recently found desire to have the fleets of oil train wagons upgraded with more crash protection within three years runs into the inconvenient fact that oil train traffic is heavily cross-border. The US government has no plan to order upgrades, and the railways and shippers are adamantly opposed. So is a "Raitt Wall" to go up across the US-Canada border in three years' time? A more likely outcome would be that her "upgrade" plan will simply slip away unnoticed.

Oil Train Safety as Oxymoron?

The entire disclosure debate surrounding crude oil by rail begs an uncomfortable fact - it cannot be made safe. It would cost vast sums to upgrade tracks and wagons, route trains around the largest or most vulnerable population centers, lower train speeds, and so on. The railways and oil shippers are having none of it.

Lower speeds only make the newer "crash-resistant" wagons "somewhat safer," not "safe." And all the emergency preparation in the world (as opposed to very expensive, preventive maintenance, which the railways refuse) would not have saved the lives of the 47 who died in Lac Mégantic.

Each oil train disaster or derailment tells its own story of the frailty of the "safety" of the rail system in North America. In the case of the Canadian National Railway Company (CN Rail) derailment in January of this year at Plaster Rock, New Brunswick, the **preliminary investigation shows** it took just one faulty wheel to provoke the crash. Nineteen wagons of a 122-car train derailed. Nine of those that derailed and exploded were carrying crude oil and petroleum gas. (No lives were lost.)

Two lawsuits on behalf of victims are underway against the now bankrupt MMA, its parent company Rail World, and the oil and rail companies that

made up the consortium that brought the train to Lac Mégantic that fateful night. Canadian law limits the damages that can be awarded. A lawsuit in US courts is held up by the bankruptcy proceedings of MMA. The railway has been sold to the New York based Fortress Investment Group, and it has renamed the line the Central Maine and Quebec Railway. But bankruptcy proceedings are unfinished.

The Quebec government has undertaken legal action against MMA **for compensation** for the estimated \$409 million cleanup cost of the disaster, but the bankrupt railway's insurance is only good for \$25 million, and the government agrees that those moneys should first go to the families of the victims. CP Rail, Irving Oil and the other members of the consortium are denying any responsibility for the cleanup.

Fortress Investment Group wants to resume oil train shipments to Saint John along its new acquisition. It hopes to do so within 18 months. The mayor of Lac Mégantic and the Quebec and Canadian governments back the plan.

A local citizen's group, Carré bleu Lac Mégantic, is campaigning for a rerouting of the rail line around the town. Many citizens are opposed to any resumption of oil train traffic.

Oil Change International has just published a 30-page report examining the expansion of oil-by-rail across North America. It is titled, "Runaway train: The reckless expansion of crude-by-rail in North America." Read or download the report [here](#). The report is accompanied by an interactive map that displays the current state of the industry and its planned expansions. A week of action has been called by environmental groups in the United States and Canada beginning July 6 to "Keep oil off the tracks and in the ground!"