

## The Sad State of Railway Safety in Canada: It must be fixed

During a Parliamentary debate on April 16, 2007, Transport Minister Cannon stated that "rail safety has gone down the tube in this country." Many agree with this comment. On December 14, 2006, the Minister announced a review of the Railway Safety Act. An Advisory Panel was struck, chaired by Doug Lewis, a Minister of Transport in the Mulroney government. The Panel is expected to report back its findings shortly. In a statement last August 20 in Toronto, however, Chair Lewis cautioned that the panel's mandate has its limits, staying away public security, union management, and customer issues. No one representing the railway unions is a panel member.

### Safety Record Cause for Serious Concern

The March 2007 Consultation Guidance Document, "Review of the Railway Safety Act," reveals that rail accident rates showed a steady decline from approximately 1,300 in 1996 to 985 in 2002, as reported to the Transportation Safety Board (TSB). Since 2002 the trend has risen; in 2006 there were 1,142 accidents. TSB reports derailments account for over half of all reported accidents annually. Transport Canada figures show accidents have been above the five-year average for the past two years. The Guidance Document lists nine major rail accidents from April 12, 2001 through to January 7, 2007. Subsequent to that period, up to and including February 18, 2008, at least 14 additional major incidents took place, mostly involving derailments. That's more than in the six plus previous years!

It was reported that one major rail company had an astonishing 103 main-track derailments across the country in 2005. A truly dismal record, indeed.

This defies all business sense and raises the question. If safety a priority for management?

The issues/concerns at hand are fatalities, injuries, damage to the environment, and economic losses.

The report by the TSB on the derailment of a CN train that dumped 700,000 litres of fuel oil into Alberta's Lake Wabamun on August 3, 2005 speaks to this state. The Report released last October said that accident was caused by a broken rail and said that management of the spill would have been more efficient if the company had better co-ordinated its emergency response plan. TSB reiterated a recommendation, first made in 1993, that systems to detect rail flaws be improved. A report out of Edmonton this past January said Transport Canada is working with the railway industry to improve track safety in response to the Lake Wabamun derailment. A program is being devised to establish standards for the quality and strength of rails. One would think such a program would already be in place, considering the railroads have been in business for well over a hundred years. Not so! In commenting on this program, a TSB official said that Transport Canada and the railway industry could take years to come up with a practical plan, in order to reduce the number of derailments. Not very encouraging by any means!

In August 2005, the derailment of a CN train near Squamish, B.C. caused extensive environmental damage. The derailment caused a spill of 40,000 litres of caustic soda into the Cheakamus Rive, virtually wiping out the river's fish population. A TSB investigation into that incident found the locomotives were not properly configured and the crew was not properly trained.

That derailment was one of four similar incidents between August and December 2005. One would expect even a single incident to trigger the company to take preventive action and would most certainly expect the regulator, Transport Canada, to make sure corrective action had been taken. On June 29, 2006 another CN train derailed near Lillooet, killing two crew members.

Friday, August 3, 2007, five charges were laid against CN in conjunction with the Squamish derailment. That day, a CN spokesperson said that since that incident CN had implemented a safety action plan. On Saturday August 4, two CN trains collided in Prince George, B.C. Again, there were allegations that CN is putting profits before safety. A third party - and that has to be government - must step in before further disasters happen.

It is surprising how little media coverage the Prince George incident received. There was practically none outside of British Columbia. On June 15, 2007 there was a derailment near Nakina, Ontario. It was not even covered in the news. Apparently such incidents have become so common they are no longer newsworthy. The lack of news coverage on such a critical national problem is in itself a sad commentary.

### The Impact of Safety Management Systems (SMS)

Amendments to the Railway Safety Act in 1999 gave railway companies the authority to implement Safety Management Systems (SMS), designed as a framework for integrating safety into operations. Companies were supposed to identify risks long before they became bigger problems. SMS entailed a reduction in regulatory oversight; with its implementation, Transport Canada largely gave up its regulatory oversight role.

Since SMS began, there has been an alarming increase in serious incidents. The friction it has caused between management and workers has often led to an acrimonious work environment, which in and by itself has an adverse effect on safety. Proponents claim SMS is not self-regulation or deregulation, and has not fundamentally changed the way railroads operate. Management says SMS has enhanced safety. Opponents claim otherwise. Workers fear that allowing the companies to oversee the government's safety regulations is a conflict of interest. They point that along with SMS has come a reduction in the number of Transport Canada inspectors, thus eroding the authority and function of the regulator. "Spot audits" - historically regarded as critical safety checks - have come to an end.

Workers are also concerned SMS gives management the responsibility to manage risks based on the level of risk it is willing to accept. A risk threshold set by the industry may be less demanding than one set by Transport Canada. The concern has been expressed that SMS allows companies to regulate themselves, in the process removing the government's oversight function. The move to SMS is not restricted to Canada. In view of the poor safety performance that has accompanied its implementation, an assessment of its impact on rail safety is critical. The government must take action to ensure safety.

Australia's National Transport Commission, after reviewing its experience with SMS, revised its Railway Safety Bill in April 2006. States began adopting the new provisions last year. Implementation of SMS in Australia has apparently been more successful in averting serious incidents than the Canadian experience. The new Australian model should be examined for its potential to strengthen SMS in this country. Of particular note, it specifies personal (non-criminal) liability; this provision has forced managers to place a high priority on safety.

## Re-instate the Authority of Transport Canada

Canadians rightly expect their Government to take responsibility for railway safety. The public assumes safety is in the hands of an independent regulator making decisions in the public interest-not a self - interested industry whose decisions may dilute safety with profit motivation. Canadians would be shocked to learn the degree to which the government has reneged on its responsibility for railway safety. There is currently a lack of protection for railway employees who report violations to Transport Canada. They are not allowed to by-pass their company's SMS. Whistleblower protection must be incorporated into the Railway Safety Act.

The government must re-instate the authority of Transport Canada and ensure the fiscal requirements are allocated for effective regulatory oversight. Independent third party audits are absolutely critical to assuring the integrity of any system, be it related to finance, quality, and/or safety. Lives will continue to be jeopardized unless the government ensures there are enough Transport Canada inspectors to do the vital job.

## Safety in Not a Frill

The railways are an important industry. Canadians must be assured that rail safety is not being compromised in the interest of profits. It is false economy to cut back on safety. Safety-related infrastructure cannot be considered a "frill". When the space shuttle Columbia was destroyed in February, 2003, seven astronauts died. The report on that disaster revealed it was a result of flawed safety practices.

Even after Challenger blew up in 1986, also killing seven astronauts, NASA did not improve its safety systems. The report of that disaster found that managers accepted flaws in the system as normal and frowned on dissent. Is this the kind of atmosphere that has developed and continues to simmer undetected - unknown to the public – in Canada's railway industry, until one day another unspeakable tragedy, not unlike the disastrous one in Mississauga in 1977, occurs.

The Walkerton, Ontario water tragedy and the on-going debacle of dangerous goods being imported from China are other cogent reminders of the importance of regulatory oversight.

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