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10th Anniversary of the Lac-Mégantic Tragedy
A Lesson in Nation-Building

– Diane Johnston –



Residents mark the 10th anniversary of the Lac-Mégantic Tragedy

• **Lac Mégantic – This Is Not an Accident**

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July 6 marked the 10th anniversary of the Lac-Mégantic tragedy that resulted in 47 deaths, more than one suicide and untold and ongoing grief and concern for the citizens of that small Quebec municipality. It has also steeled their resolve and given rise to amazing resilience on their part.

Ten years after the incident, the fight is far from over as increasingly long trains (up to 5 kilometres) carrying dangerous goods continue to traverse downtown Mégantic at higher speeds.

Since the tragedy, the community has doggedly sought to ensure that all measures are taken to ensure that such an event never occurs again. Initially, they sought a rail bypass that would divert trains from carrying dangerous goods through Lac-Mégantic. When it became clear that the rail bypass project being imposed by Transport Canada and Canadian Pacific (CP) is unsafe for the municipalities of Mégantic, Nantes and Frontenac, they withdrew their support.



Moreover, the current bypass project upholds the key arrangement which the people object to, that the government gives control over such important matters to private interests, blocking the people from having any say. A bypass that is made in the name of safety, but only serves to uphold private interests at the people's expense will not do. For the federal government to abdicate its role, as it has already done in permitting the railway monopolies to self-monitor the implementation of safety regulations, is unacceptable and will only ensure that another tragedy like the one in Lac-Mégantic in 2013 is merely a matter of time.

On June 14, less than a month before the tragedy's 10th anniversary, the Trudeau government announced it would be moving forward with the land expropriation requested by Transport Minister Omar Alghabra in order to commence construction on the rail bypass this fall.

In mid-July, lawyers representing some of the residents concerned filed a request for an injunction in federal court, seeking to suspend the expropriation process until the case can be heard on its merits. Frédéric Paré, one of their lawyers, says the federal government did not follow proper procedure and that seizing properties is premature because the Canadian Transportation Agency has yet to approve the construction of the bypass.

Residents' concerns, however, go far beyond expropriations. During public consultations in May, some 63 parties and their lawyers raised objections to the bypass. These objections include that added curves could trigger derailments and that the majority of residents in the three municipalities affected by the proposed bypass route (Lac-Mégantic, Nantes and Frontenac) are opposed to it. They also say that alternate routes have not been properly studied and that the cost of the project has exploded, with the federal and Quebec governments footing the bill for the increases, and CP Rail becoming the future owner of the bypass.

The most recurring concern, by far, is over the project's environmental impacts, such as the loss of wetlands, the lowering of the water table and the proposed project's impact on wells and waterways.

Over the last ten years, well-researched books, a graphic non-fiction book, a documentary, a documentary series and reams of articles have kept the tragedy of Lac-Mégantic uppermost in our minds.

Not only has the Lac-Mégantic tragedy united a community and steeled their resilience and resolve;

it continues to call upon and motivate Quebecers and Canadians to contribute their talents in exposing what happened and why those responsible must be held to account, so that such catastrophes are prevented from ever happening again.

In building a society in our image, the first step is to call out what we do not want and why.



Demonstration demands rail safety measures in Lac-Mégantic, July 10, 2016, three years after the rail disaster.

On this sad anniversary, we pay our deepest respects to all the victims and their families. We also wish to highlight the contributions of Anne-Marie Saint-Cerny[1], Robert Bellefleur and the Coalition des citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic[2], Bruce Campbell[3], Philippe Falardeau[4] and posthumously our own Pierre Chénier[5] of the Workers' Centre, who have worked tirelessly to expose the truth about what happened and seek a path forward.



With profound sadness and anger the Quebec working class learned of the terrible tragedy that struck Lac-Mégantic. Banner in photo from July 10, 2013, reads "With all our hearts, we are with you."

Notes

1. *Mégantic: A Deadly Mix of Oil, Rail and Avarice*, Anne-Marie Saint-Cerny, Talon Books, June 2020; *A Train in the Night: The Tragedy of Lac-Mégantic*, Anne-Marie Saint-Cerny, Between the Lines, October 2022.

2. La Coalition de Citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic.

Interviews with Robert Bellefleur conducted by Pierre Chénier:

"The Rail Bypass Must Be About the Recovery of the Mégantic Community, Not Canadian Pacific Profits," *Workers' Forum*, May 20, 2022

"Citizen Action Essential to Ensure Rail Safety," *TML Weekly*, July 11, 2020

"New Rail Line Bypassing Town Centre Needed Soon," *TML Weekly*, July 9, 2016

3. *The Lac-Mégantic Rail Disaster Public Betrayal Justice Denied*, Bruce Campbell, James Lorimer & Company Ltd., Publishers, 2018.

4. *Lac-Mégantic – This Is Not an Accident*, documentary series directed by Philippe Falardeau

5. Articles written by Pierre Chénier

"Community Residents Must Have Decisive Say in the Project and Their Future," *Workers' Forum*, March 27, 2023

"Residents Continue to Demand Safe Rail Bypass in Lac-Mégantic, Quebec: Hold Governments to Account!," *Workers' Forum*, February 9, 2022

"Lawsuit Against Canadian Pacific in Lac-Mégantic Tragedy: Residents and Activists Demand Answers and Rail Safety Protection," *Workers' Forum*, October 25, 2021

"7th Anniversary of Lac-Mégantic Tragedy: The Need to Build a Public Authority that Defends Public not Private Interests," *TML Weekly*, July 11, 2020

"Fifth Anniversary of Lac-Mégantic Tragedy: Hold Rail Monopolies and Governments Accountable!," *TML Monthly*, July 11, 2018

(With files from the Government of Canada, *The Canadian Press*, *Lac-Mégantic — This Is Not an Accident*, *Workers' Forum*, *La Coalition de Citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic*, *TML Weekly*. Photos: S. Poulin, town of Lac-Mégantic)



Lac Mégantic – This Is Not an Accident



The four-part documentary series "Lac-Mégantic – This Is Not an Accident" was directed by Quebec film-maker Philippe Falardeau. It is based on the book *Mégantic: A Deadly Mix of Oil, Rail and Avarice* written by Quebec author and activist Anne-Marie Saint-Cerny. The film delves into

the 2013 train tragedy in the town of the same name, where a broken train carrying 7.7 million litres of Bakken crude oil, obtained through fracking, caught fire and exploded, killing 47 people. It also draws certain parallels with the train incident in Field, British Columbia, where a three-member crew plunged to their death following a train derailment.

The series provides a space for family members and co-workers of the victims to be heard, while sharing research and expertise on the state of Canada's private railway industry and the impunity it benefits from through self-regulation and private police forces who are responsible for investigating railway incidents. Both CPKC (formerly Canadian Pacific Railway before the purchase of Kansas City Southern Railway) and CN (Canadian National Railway) have their own private police forces.

The Lac-Mégantic Tragedy

In line with the documentary series' title, Anne-Marie Saint-Cerny declares that Mégantic wasn't an accident, and with facts in hand, proves that the tragedy was predictable and could have been avoided, highlighting the fact that the coroner Martin Clavet wrote in each of his 47 reports that "This death could have been avoided." Saint-Cerny asserts: "When authorities produce dozens of reports warning of a grave danger, and then allow the industry to self-regulate and self-investigate a tragedy, that means they knowingly accept that there will be deaths." Between 2009 to 2013, at the time of the Lac-Mégantic train disaster, oil transportation by train had increased in Canada by 28,000 per cent.



Transport Canada

When asked about the volatile substance and whether there had been a regulatory response in place regarding public safety, Louis Lévesque, deputy minister of Transport at the time, answered that "Transport Canada did not foresee the higher risks associated with this increase of oil transported by rail" and that what it "did not realize was that it wasn't only CN and CP doing that – the small operators were also into oil and that was a fundamental change in risk for them."

Ed Burkhardt, then owner of the Montreal Maine and Atlantic (MMA) railway line running from Montreal to the Irving Oil Refinery in Saint John, New Brunswick who CP had subcontracted the shipment to, reveals that in order to cut costs, the company was intent on running trains with a one-man crew, as was the custom in the U.S., and that it had requested that Transport Canada "approve, or not oppose" the operation of its trains by a single person. "They didn't approve it but they said 'We're not standing in the way,'" he informs, adding that "they were with us while we developed the whole thing."

Louis Lévesque corroborates this, saying that Transport Canada headquarters "decided not to oppose the practice." Interestingly, Denis Lebel, who was then Transport minister under the Harper Conservative government, was reshuffled one week after the tragedy and refused to be interviewed for the documentary.

In response to the fact that at the time, authorities in the U.S. and Canada had been saying for approximately 20 years that DOT-111 tank cars were too fragile to carry dangerous goods, Lévesque responded that though these cars were the subject of much discussion, "no tank car can withstand an impact of 103 kilometres an hour in downtown Mégantic."

The Revolving Door

It was the Harper federal government (under John Baird, Transport minister from 2008 to 2010) that gave the big railway companies the power to write their own rules and carry out their own inspections, thereby limiting Transport Canada's mandate to the simple oversight of the railway companies' operations[1].

In February 2015, Baird announced that he would be leaving politics and shortly thereafter, joined the Board of Directors at CP, now CPKC (Canadian Pacific Kansas City), where he continues to be Director, as well as Chair of its Corporate Governance, Nominating and Social Responsibility Committee and a member of its Risk and Sustainability Committee.

Prior to the Incident

On June 30, 2013, some 250 trucks carrying crude oil arrived in New Town, North Dakota, which was then transferred onto a CP train. On the truck drivers' bills of lading, the word "explosive" signified that this was the most dangerous oil, because it was highly volatile and flammable. However, for the 72nd time, meaning that it was common practice, a worker from World Fuel and CP later falsified the data on the receipt before it was handed over to the rail conductor.

The train departed, traveling through North Dakota, then on to Milwaukee and Chicago, the third most populated city in the U.S. It entered Canada traversing the Windsor Tunnel and arrived at CP's Toronto rail yard. Once it arrived in Quebec at the company's Côte Saint-Luc rail yard in Montreal, it was put in the hands of MMA.

At Farnham in Quebec's Eastern Townships on July 5, Tom Harding embarked as the sole crew member and headed towards Mégantic with its sharp curves and slopes. He called MMA in the U.S. to inform that the locomotive is not working, unaware that the day before, another engineer also had a lot of trouble with the same locomotive and had sent a message to the U.S. saying that it was broken and had to be removed. The following morning, the same engineer even went to see his boss to tell him that Harding should not leave with the same locomotive.

When he arrived around 11:00 pm in Nantes, Harding was forced to park the train for the night on a slope on the main track, as the siding was occupied.

Months earlier, Harding had applied the automatic brakes on the entire length of the train, only to be reprimanded by MMA because of the time that would be lost in starting the train back up again.

Ron Kaminkow of Railroad Workers United, a diverse group of railroad workers, family members and retirees from throughout North America with members from every rail craft and railroad union, remarked: "That a government agency or corporate policy would allow a train, any train, let alone a loaded oil train of that weight on that steep a slope, on the main line with no derail protection, even if you had a hand brake on every single car on that train, to not set the automatic brake is absurd, absolutely absurd."

The Aftermath

"Right from the start everyone came," recalls Anne-Marie Saint-Cerny. "The federal government sent their people. There's the investigation of the Transport Safety Board" that "will determine the cause. There's a criminal investigation by the provincial police and their [railway security] expert Callaghan."

"According to the 'polluter pays all' principle," she continues, "the task of cleaning up rested on MMA's shoulders, who hired their own people, subcontractors and prohibited access to anyone else."



Robert Bellefluer (left) and Daniel Larochelle (right)

Robert Bellefluer, a resident and member of the Coalition des citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic, stated: "The company at fault was in fact put in charge of the disaster site, which was now a crime scene."

It took Daniel Larochelle, a Mégantic resident and lawyer whose house and office burned to the ground during the explosion, just over a week to register the first class action lawsuit on behalf of the victims.

"We're suing 40 companies: the board at MMA, all the rest were next, the provincial government, the town, public safety authorities, the government of Canada. [...] We sued Transport Canada once we were certain that it had granted MMA permission to use the single operator, the one-man crew."

As for the decision not to hold a public inquiry, "it was made in the Privy Council of the Cabinet," says railway expert Stephen Callaghan. "The grown ups have said no. And that decision was made before I got here [...] before I started working on the 11th of July."

Approximately 30 days after the tragedy, MMA declared bankruptcy, thereby placing the financial burden of the clean-up on the government.

Some six months later, the trains were rolling again through downtown Lac-Mégantic. "But this time the curve was sharper, more dangerous than before, because they had cut off a corner that had been soaked with oil," explains Anne-Marie Saint-Cerny.

In May 2014, Tom Harding was in his back yard in Farnham when a SWAT team broke down his door with a battering ram and with guns raised, shoved him and his son to the ground, tying their hands and feet as if they were terrorists.

"We had sent several letters to the Sûreté du Québec advising them that if ever they needed to arrest Harding, that he would voluntarily surrender himself," explains Harding's lawyer, Charles Shearson.

The Trial

Three MMA employees were criminally charged: Tom Harding, the locomotive engineer, Richard Labrie, the rail traffic controller, and Jean Demaître, operations manager of MMA Quebec.

"This was a plan where the lines were already written, the outcome was already going to happen," interjects Jennifer Quaid, a law professor at the University of Ottawa. "It was just who was going to be in what role. Who was going to be the unlucky person driving the train," "the supervisor on

duty" and the "person relaying the communications." She adds: "an event like Lac-Mégantic doesn't happen because of the conduct of one person."

The trial by jury took place in October-November 2017. All three were charged with 47 counts of criminal negligence causing death. Harding was charged for not applying a sufficient number of hand brakes. Richard Labrie was charged for not asking Harding to go back to the train when he found out there was a fire and for not asking him how many manual brakes he applied. Jean Demaître was charged for putting a broken locomotive as the train's lead engine.

Finally, all three employees were found not guilty.

In the opinion of Anne-Marie Saint-Cerny, the trial was a joke in that "it stayed within the framework of the 12 hours between the time that Harding boarded his locomotive to the time of impact at Mégantic."

"Investigations," suggests Ron Kaminkow, "should be about preventing such a disaster from ever happening again. Since we're so busy focusing over here on worker behaviour, we're not looking where we should be looking, which is at the hazards [...] that lurk behind every single incident that takes place. We're missing the forest for the trees." He adds: "The train has no reason to cross the town anymore; there are no passengers."

"It was the Citizens' Coalition that spearheaded the construction of the rail bypass because we thought it was an important project," says Bellefleur. But it has since changed its position, as have many residing in the communities of Lac-Mégantic, Nantes and Frontenac that will be traversed by the new railway track, as the reality is that the Trudeau government has gone ahead with the rail bypass project without properly consulting them."

"You've got 47 victims and a few suicides that follow," comments Mégantic resident Jean Clusiaux, whose daughter died in the explosion. "Yet no one's guilty. No one's guilty because they simply hid the real culprits."

"If there was a focus to divert attention [...] it worked" says Harding's lawyer, Charles Shearson. "All of the core issues underlying what is necessary to make the rail industry safe were left unattended." To this day, the federal government continues to refuse to hold an independent public inquiry into the tragedy.

"I say there are still guilty parties to be found," asserts Anne-Marie Saint-Cerny. "It's not just a question of justice and it's not to nail them to the wall. But it's to have a sliver of hope, a sliver, that this won't happen again."

Note

1. "Brief on rail safety and the transportation of dangerous goods by train in Canada," presented as part of the hearings of the House of Commons Standing Committee on Transport, Infrastructure and Communities by the Coalition des citoyens et Organismes engagés pour la Sécurité ferroviaire de Lac-Mégantic, June 17, 2021.

(Source: Lac-Mégantic – This Is Not an Accident. Photos: screenshots from film, First Responders)



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