

If You Care About Railroad Safety You Must Defend Tom Harding

Practically every North American railroader now knows about the tragic train wreck in the town of Lac-Megantic, Quebec in July, 2013. With its tremendous loss of life and destruction, the disaster made headlines around the world. In the aftermath of that accident, as we discussed it amongst ourselves, details became known. One of those details was that within days of the wreck the locomotive engineer of the runaway train, Tom Harding, was arrested and ultimately charged. He and his Dispatcher face the possibility of life in prison if found guilty as charged. No company official of the Montreal, Maine & Atlantic (MM&A) – the railroad upon which the wreck took place - nor the company itself have faced criminal charges.

To this day, there is confusion and disinformation circulated about that matter. For those of us in the fight for rail safety, it is imperative that we know the facts. This is key not just to prevent a grave injustice, but to prevent future repetitions of that incident *and* to stop the dangerous push by the rail carriers to deflect all liability for the consequences of their policy decisions and simply blame-the-worker every and any time there is an accident or injury, fatality or disaster.

Some railroaders – even a few known as safety conscious can get this issue wrong. Because conscientious trainmen and engineers take safety on the job so seriously, taking personal responsibility comes as second nature to us. No one wants to be seen as making excuses for a co-worker who doesn't take his/her job or their co-workers' safety seriously. As a result, some raise arguments that perhaps Tom Harding is guilty of something, that maybe he deserves to be charged. Therefore, it is crucial that we examine the facts.

What We Know: On July 6th, 2013, at 0110 EDT the MM&A railway freight train identified as OIL-L, consisting of 5 locomotives, 1 belt pack remote control caboose and 73 cars, including 1 boxcar loaded with inert material used as buffer car directly behind the locomotives and 72 loaded tank cars of Bakken crude oil, 4748 feet long weighing 10,287 tons, ran away at Nantes station, Mile 7.4 on the Sherbrooke Subdivision. Sixty-four cars derailed at Mile 0.25 in the center of the town of Lac-Megantic, Quebec. The derailment resulted in the spill of product and a fire that in its scope and rapid spread destroyed a large part of the town center. Forty-seven people died in the event. We know that MM&A was one of the pioneers in forcing single crew operations resulting in the loss of crucial layers of safety backups. The policy of running long heavy trains with a single crew member meant that the ability to split the train and “cut” crossings was ruled out as a means of keeping these trains off the worst of the grade at Lac-Megantic. “Securing” OIL-L (also called MMA-002) on the mainline (instead of on the derail-protected siding at Nantes), without cutting crossings, meant that the train had to be tied down on the grade when that *would not have otherwise been necessary*. The decision to operate this way was not made by the engineer. Rather it was a matter of enforced MM&A policy.

Securing trains on the MM&A was governed by that road's *General Special Instructions* dated March 1st, 2012, in paragraphs 112-1 and 112-2. It was also found in Section 14, *General Operating Instructions* of the Canadian Pacific Railway, considered valid by MM&A. Paragraph 112-1 requires a minimum of 9 handbrakes for trains of 70 to 79 cars. This was the *only* MM&A rule applicable to the situation.

Some have argued that Harding may have only applied 7 handbrakes (as the police expert surmised, based on long distance visual inspection after the derailment) thereby setting the stage for the runaway. But the determination of the Canadian Transportation Safety Board (TSB) investigation was clear that 9 handbrakes would not have prevented the incident. The TSB investigation states that no less than 15 (and possibly as many as 26) handbrakes would have been required to prevent the incident. Prevention of the accident is the only question that needs to be asked regarding criminal charges.

There are NO credible authorities that believe that if Harding had been found to have applied the required 9 hand brakes, the wreck would have been prevented. Those who want rail safety must refuse to be fooled by rail management claims that the employee – and his actions or lack thereof - are solely responsible for safe rail operations.

The investigation shows that MMA-002 ran away because it was left on a grade without: 1 - sufficient handbrakes; 2 - derail protection, either on the siding or the Main; and 3 - a working air compressor to charge the brake system. Each of those factors were beyond Harding's control. According to the TSB investigation, each of the above were significant contributors, all the result of MM&A and Transport Canada policy decisions and deficient safety culture, setting the stage for disaster.

The fact is that if Harding had applied *no car brakes at all* and the MM&A's policies of placement, securement, and equipment maintenance had not been what they were, MMA-002 would *never have run away*. Those matters were of course, beyond his control. The principal catalyst of the incident was the shutdown of the locomotive by the local fire department after the stack fire, shutting down the only running compressor, together with the failure of the MM&A to have a qualified person establish whether the equipment was properly secured or not after the fire was put out.

An esoteric discussion of whether Tom Harding is a great engineer or not is irrelevant. If he, in fact, had applied less than the required 9 brakes or improperly tested those inadequate brakes, his actions do not support criminal charges. At worst, he might be guilty of MM&A rule violations, although the TSB makes clear that both the MM&A and Transport Canada bear major responsibility for the failures of training and understanding that are highlighted in this incident. It has been established that even if everything would have been done *according to rule*, the equipment would still have run away and derailed. It deflects from where the criminal liability must rightly fall. Anyone who wants railroad policies, procedures, and practices that protect workers and communities need to get this right. *Next time it could very easily be you.*

Nearly every railroader has been in - or has seen - someone in the situation that Tom Harding was in that night back in the summer of 2013. By rule and based on his training and the culture of the MM&A workforce, he was rendered incapable of taking actions that could have prevented the wreck. It takes “smoke and mirrors” and a huge PR operation to turn this into criminal charges against Harding and his Dispatcher. Progressive railroaders must not participate in this scapegoating. Actual rail safety requires that the carriers assume responsibility and accountability for the demands and operating conditions that they impose on us.

The scapegoating of Tom Harding must be seen in the context of the entire industry's policy move away from all corporate responsibility. Across the continent, we have seen more and more incidents where the operating crew is held civilly or criminally liable for the results of unsafe conditions imposed upon them as a matter of railroad policy. If Tom Harding is found criminally liable in Quebec, it would deal a deadly blow to railroad safety across the continent. And the fact is that deadly consequences would inevitably be the result.