Submitted to the Standing Committee on Transport, Infrastructure and Communities
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In August 2005 a CN train derailed and spilled caustic soda into the Cheakamus River near Squamish on the south coast of British Columbia. Hundreds of thousands of fish were killed and the river will be ‘dead’, it is thought, for a generation. In the following months dozens more derailments occurred (see APPENDIX 1). Tragically, one of these accidents, near Lillooet in the southern interior, resulted in the deaths of two CN workers.1

As a result, residents of BC are rightly nervous about CN’s operations in our province. For those who live in CN Rail corridors it is perfectly reasonable to worry about their personal safety and equally reasonable to be concerned about the protection of the environment. Railway workers have every reason to be concerned about their ability to carry out their jobs in a safe and secure way.

CN’s operations in British Columbia are largely the result of the privatization, in 2004, of BC Rail, a crown corporation. It is instructive to note that the decision to sell BC Rail was an extremely controversial one. Our Premier had previously promised never to privatize BC Rail and the government’s decision to do so still resonates negatively with a large number of British Columbians.

Moreover, the elements and details of the sale itself have been the subject of substantial contention. A major court case, with dramatic revelations every day, is proceeding and among the many issues which are being canvassed is the whole issue of the circumstances of the privatization of BC Rail.

It is important to note that I asked British Columbia’s Minister of Transportation, the Honourable Kevin Falcon, to accompany me in providing our insights to your committee together. Sadly, the Minister has chosen not to attend. I believe that Minister Falcon may have important information to share with you. I encourage you to communicate with him to seek his input. In particular, I have asked on numerous occasions that the Minister make public any discussions with, or commitments from CN regarding safety,

1 I am aware that Gordon Rhodes, the CN worker who survived the Lillooet crash, has spoken to your committee. I have read his submission carefully. I wish to associate myself with Mr. Rhodes’ presentation and make it clear that in the course of my investigations I have been told by other railway workers of virtually every one of the concern sand situations reported to you by Mr. Rhodes.
maintenance or environmental protection at the time of the negotiations for the sale of BC Rail. The Minister has chosen not to respond to date. I urge you to seek his cooperation in providing this information.

Almost immediately after the Cheakamus derailment, I asked Minister Falcon to request that his federal counterpart carry out a public investigation of CN’s safety, maintenance and environmental protection practices in BC. Throughout the course of the months during which derailments took place at an alarming rate, I renewed this request, both inside and outside the legislature, on numerous occasions. The Minister refused.

On September 19th 2006 I released the maintenance inspection record pertaining to the locomotive in the Lillooet crash and the Transportation Safety Board summons to CN.

In addition, my office made the original Access to Information request regarding the Transport Canada audit of CN and as a result the two audits were recently made public – a year and a half after they were written. That ATI request was made on September 27th 2006 after Transport Canada finally indicated it was the only way they would be able to release the audits to me. Significantly, three of the requests I made in that access to information application have still not been responded to. My original requests were for:

1) Any and all Safety Audits or Safety Management System Audits concerning CN Rail completed by since August 2005; (now released)
2) Any and all Notices and Orders issued to CN Rail since August 2005;
3) Any and all correspondence between Transport Canada and CN Rail concerning the documents noted in (1) and (2); and,
4) Any and all correspondence between Transport Canada and the Government of British Columbia concerning the documents noted in (1) and (2).

In trying to understand just what led to the spate of CN derailments, two things are clear: First, CN was not prepared for the unique environment and topography of British Columbia when they bought BC Rail. When the railway was run by a provincially-owned company these challenges were recognized. CN’s decisions with respect to dynamic braking, length of trains, training, rail yard practices and many other issues did not take into account the reality of the challenge they face in BC. Certainly that was not the case with BC Rail. Note that, when the provincial government sold BC Rail to CN, the railway for the first time came under federal standards, which did not recognize many of the specific challenges of BC topography. A March 2003 report by the National Research Council of Canada found that BC Rail standards were more restrictive than Transport Canada standards.

Second, after the sale of BC Rail for the first time the primary rail line in BC was owned and operated by a multinational corporation whose priorities were focused more on its bottom line than on the public interest. This resulted in very unfortunate choices. One example was the decision to move locomotives and rolling stock most suitable to our province to other parts of the CN system.
At least to some extent, CN’s choices and practices in BC have resulted in the hundreds of millions of dollars of profit that CN reports every quarter. Those enormous profits, at a time when the safety of the people of British Columbia and our environment have been put in jeopardy, create a maddening juxtaposition.

This is not to say that BC Rail was a perfect entity. Certainly there were problems with its operation. But BC Rail, at least to some extent, saw its mandate as providing service which met the needs of its owners – the people of British Columbia. That included much more than a simple “bottom line” and British Columbians are well aware of the difference.

What follows is not an exhaustive technical study of the dozens of CN derailments in our province. Others are more capable of carrying out that task. Rather, the material below focuses on some of those practices used by CN, since its purchase of BC Rail, which differ from previously existing practices. The examples laid out were gleaned from hundreds of conversations with railway workers (both active and retired), journalists, elected officials, community members and others who became increasingly concerned as the number of derailments mounted in our province. I sincerely hope this will be of value to the members of the committee as you continue your deliberations.

Some of the practices outlined below have been modified following orders by Transport Canada, but not before tragic derailments like those at Cheakamus and Lillooet.

1. One of the most notable changes – and one that preliminary evidence indicates likely played a crucial role in the tragic accident near Lillooet last June – has been with regard to dynamic brakes. Dynamic brakes reduce the speed of locomotives by reversing the current in the electric traction motors, something that is especially important on the steep terrain in British Columbia. While BC Rail locomotives were equipped with dynamic braking systems, CN stopped this practice. It is our understanding that CN’s decision to stop using dynamic brakes was a cost-cutting measure because they are more expensive to maintain. Following the fatal Lillooet derailment, CN was ordered by Transport Canada to obtain dynamic braking systems for locomotives operating on certain portions steep terrain.

2. Another important change has been the length of trains. Train length has increased dramatically under CN. For example, the maximum length of trains run by BC Rail was approximately 100 cars, and in the Cheakamus Canyon the average length of BC Rail trains was about 80 cars. By comparison, CN Rail regularly ran trains up to approximately 144 cars in length in the Cheakamus Canyon until being ordered by Transport Canada to change their practices. We have been told by the provincial Minister of Transportation that the general rule of thumb is that CN Rail trains are approximately 50% longer than those that were run by BC Rail.
3. A number of changes have also taken place to the safety standards in rail yards. These changes do not get as much publicity as some of the changes on the main rail lines, but they are still disturbing.

- BC Rail used to require air brakes to be tested before descending grades of 1.6%, but CN Rail only requires this practice on their main line, not on their spur lines.
- BC Rail required trains in the yard to have operating brakes on the first car of all trains going down a slope to a shop for repairs; CN no longer requires this. It was this type of change that was referenced in the leaked Transport Canada inspection report from July 2006, obtained by the CBC, which among other things mentions braking problems in the Prince George rail yard.
- Another issue that has arisen has been around the operation of Beltpack technology, which is used to remotely operate locomotives in rail yards. When BC Rail used this technology they required two certified operators to work together in order to ensure that safety remained paramount. It has been reported to me that CN only requires one certified operator.
- A further issue relates to the use of wheel gauges, which are used to inspect train car wheels before trains leave the rail yard. It has been reported to me that, since CN purchased BC Rail, employees are being directed to ignore condemnable wheels on trains leaving a rail yard and only replace such wheels at the end of the trip. This practice could increase the chance of a derailment, since trains are running with condemnable wheels.

4. A reduction in track patrol cars. BC Rail used to run track patrol cars on the rail line ahead of trains along sections of track prone to rockslides. This practice helps reduce derailments caused by rock spilling across the tracks. However, I have been told that the practice of running track patrol cars has decreased dramatically and, in some cases, been abandoned completely since CN Rail took over operations.

5. Significant problems exist between CN and its employees, and these can have an impact on safety (see APPENDIX 2).

As the first one to have asked for a public investigation, I was gratified when this committee voted unanimously to hold these hearings. I want to express my thanks to all of the members of the committee for your initiative. I believe these hearings are good news for British Columbia.

David Chudnovsky
Member of the Legislative Assembly of British Columbia
Vancouver-Kensington
APPENDIX 1

TIMELINE: RECENT CN DERAILMENTS IN BC

Note that this timeline is for background information only, and is not meant to be a comprehensive analysis of rail safety incidents.

- March 3, 2007: a 90-car westbound grain train derails just outside the community of Blue River, about 200 km north of Kamloops.

- March 2, 2007: in response to Access to Information requests placed by the BC Official Opposition, Transport Canada releases two reports which were completed in response to the high-profile CN derailments of August 2005 in the Cheakamus Canyon and at Lake Wabamum.

- Feb 13, 2007: a train being run by CN management personnel in the midst of a strike by conductors and yard service workers derails by Intercontinental pulp mill near Prince George.

- Jan. 5, 2007: the front wheels of a locomotive on a westbound freight train in the Fraser Canyon come off the rails after running into a rockslide.

- Jan. 4, 2007: 3 out of 4 locomotives of a 102-car train derail between Tumbler Ridge and Chetwynd after colliding with a snow bank.

- Jan. 4, 2007: 2 locomotives and a 1 lumber car of a 105-car train derail after hitting a rockslide near Lytton and plunge nearly 60 metres into the Thompson River canyon, spilling approximately 400 liters of hydraulic liquid; the two employees are not seriously injured, but are stranded for 6 hours.


- Sept. 18, 2006: 14 empty lumber cars on a CN train at a grading station derail south of Prince George.

- Aug. 9, 2006: a fire breaks out on a CN locomotive traveling near Barriere.

- Aug. 4, 2006: 9 cars of a CN train carrying grain derail 10km south of Lytton.

- July 31, 2006: 20 cars of a west-bound CP coal train derail from the CN main line near Lytton, and approximately 12 cars land in the Thompson River.
- July 17, 2006: According to numbers released by the Transportation Safety Board, as of June 2006, there had been 53 derailments in BC, an increase of 12 over the same period last year.

- July 5, 2006: Federal Transport Minister Lawrence Cannon orders CN to equip all engines with dynamic brakes when traveling in the Lillooet area.

- June 29, 2006: 1 car carrying lumber and 1 locomotive derail approximately 40 kms north of Lillooet, killing two CN employees and injuring a third. Initial reports suggest the locomotive's brakes failed.

- June 16, 2006: 6 cars of a 24-car train derail near Dawson Creek, of which 4 cars were empty and 2 were carrying grain; Highway 97 is temporarily closed.

- June 3, 2006: a woman crossing a rail trestle in Seaton Portage north of Lillooet is forced off the bridge by a CN train.

- June 2, 2006: the Transportation Safety Board issues a Statutory Summons to CN requesting them to provide records of derailments that had not been reported to the TSB.

- Apr. 21, 2006: 10 empty cars of a 40-car train derail near Terrace, making this the third derailment near Terrace in the last two years.

- Mar. 28, 2006: 13 empty sulphur cars of a 159-car train derail approximately 35 km west of Chetwynd; the Ministry of the Environment and the Provincial Emergency Program state that they were only made aware of the derailment when contacted by the CBC.

- Mar. 22, 2006: CN reports that it has had 14 accidents along CN lines in Canada so far in 2006, less than half the 34 that occurred over the same period last year.

- Mar. 8, 2006: Transport Canada eases restrictions on CN’s operations on the Squamish line.

- Mar. 4, 2006: 1 car derails near Blue River again.

- Mar. 2, 2006: 17 cars derail 200 km north of Kamloops, near Blue River; 6 cars spilled their content (grain) onto the banks of the North Thompson River.

- Feb. 21, 2006: The Transportation Safety Board of Canada releases its preliminary 2005 transportation occurrence statistics. These show a dramatic 35% increase in the number of main-line derailments reported by CN (by comparison, CP Rail saw a 5% increase in derailments).
- Dec. 22, 2005: 4 cars of a 15-car train derail on CN-owned track leased to Kelowna Pacific Railway; none of the cars are carrying hazardous materials.

- Dec. 17, 2005: 1 locomotive & a car derail along the Nechako River in Prince George.

- Dec. 15, 2005: 13 empty cars of a 48-car train derail 20 km east of Fort St. James.

- Dec. 14, 2005: Transport Canada eases restrictions on CN’s operations near Squamish, allowing distributed power trains of up to 99 cars, while also ordering CN to increase training and monitoring for a trial period of 60 days.

- Dec. 8, 2005: a small amount of highly toxic xylene leaks from a rail car in Terrace.

- Dec. 8, 2005: CN pleads guilty to a single count of failing to ensure proper documentation and procedures and pays a $75,000 fine in connection with a train wreck that killed two employees in May 2003; two additional charges are dropped.

- Dec. 7, 2005: Transport Canada orders CN to limit the length of all trains, including those with distributed power, to 80 cars on northbound rail line between Squamish and Clinton (note that this order is revoked one week later).

- Dec. 7, 2005: David Chudnovsky writes to federal Transport Minister Jean Lapierre asking him to apply train length restrictions to all trains and to launch a public investigation into CN’s practices in BC.

- Dec. 6, 2005: David Chudnovsky writes to Kevin Falcon asking him to ask the federal Minister to apply train length restrictions to all trains and to launch a public investigation into CN’s practices in BC.

- Dec. 5, 2005: four cars of a 39-car train derail at the Lulu Island trestle bridge between Burnaby and Richmond; one car loaded with automobiles plunges into the Fraser River.

- Dec. 5, 2005: 7 empty cars of a 125-car train derail in the Cheakamus canyon.

- Nov. 23, 2005: David Chudnovsky writes to Transportation Minister Kevin Falcon asking him for records of discussions with CN during BC Rail negotiations with regards to safety, maintenance, land use, and environmental protection.

- Nov. 15, 2005: CN agrees to waive annual maintenance fees charged to private crossing landholders until 2007 and to reduce the amount of liability insurance required.

- Nov. 20, 2005: 5 cars derail in the CN Chetwynd rail yard.
- Nov. 4, 2005: Transport Canada orders CN to limit conventional trains to 80 cars on northbound rail line between Squamish and Clinton; the federal Minister threatens to launch a public inquiry if CN doesn’t immediately address the safety problems. Figures from the Transportation Safety Board show that CN has had 10 derailments on the former BC Rail track line so far in 2005, about one accident a month, compared to just two accidents for all of 2004 (when the line was operated by BC Rail). The TSB numbers show that five-year average for main-track derailments on the BC Rail line through 2004 was less than 6 per year.

- Nov. 3, 2005: 9 cars of a 131-car train derail near Sunset Beach, north of Vancouver; most of the cars are empty, and none are carrying hazardous materials.

- Nov. 2, 2005: BC Transportation Minister Kevin Falcon writes to Transportation Safety Board asking them to expedite the investigation of the Cheakamus spill; the letter is copied to the Canadian Minister of Transport.

- Nov. 1, 2005: CN Rail officials meet with BC Transportation Minister Kevin Falcon and Environment Minister Barry Penner in Victoria; CN pledges to increase staff training & inspection, increase the number of internal safety audits, and run distributed power trains on the line.

- Oct. 24, 2005: 9 empty cars of a 122-car train derail 30 km north of Squamish

- Oct. 18, 2005: CN reports record high third-quarter earnings; profit is expected to continue to rise as CN aims to further reduce operating costs.

- Oct. 11, 2005: 2 locomotives and 7 empty cars of a CN train derail near Yale, injuring one CN employee.

- Oct. 7, 2005: the Transportation Safety Board issues a safety advisory to Transport Canada suggesting changes to CN Rail operations in the Squamish area.

- Aug. 31, 2005: 9 cars of a 97-car train derail near Cheam View, spilling dry sulphur near the Fraser River

- Aug. 22, 2005: Transport Canada begins a safety management systems audit, with the results to be made public in December 2005.

- Aug. 19, 2005: 4 cars of a 23-car train derail in Hixon, 23 km south of Prince George, spilling a small amount of sodium chlorate.

- Aug. 17, 2005: 3 empty cars are derailed by a mudslide east of Boston Bar.

- Aug. 11, 2005: David Chudnovsky writes to Transportation Minister Kevin Falcon; among other things, he asks him to demand that the federal Transport Minister issue an order restricting train length in the area surrounding Squamish.
- Aug. 5, 2005: 9 cars of a 144-car train derail in Cheakamus Canyon (Squamish), spilling highly-acidic caustic soda into the river; a preliminary government investigation states that CN broke federal safety regulations.

- Aug. 3, 2005: 45 cars of a 140-car train derail in Alberta, spilling oil into Lake Wabamum, 65 km west of Edmonton

**Previous dates to note:**

- July 2004: CN purchases the BC Rail line from the government for $1 billion.

- Dec. 21st, 2004: criminal charges (including fraud, influence peddling, accepting bribes, and breach of trust) are laid against David Basi, Robert Virk, and former communications officer Aneal Basi; these charges are linked to the sale of BC Rail.

- Dec. 28th, 2003: police execute search warrants at 7 locations, including 2 offices in the BC Legislature, as part of a criminal investigation of former Ministerial Assistants David Basi and Robert Virk.

- March 2003: a National Research Council of Canada study notes that BC Rail standards are more restrictive than Transport Canada standards.
APPENDIX 2

A PARTIAL LIST OF PROBLEMS IN THE RELATIONSHIP BETWEEN CN AND ITS EMPLOYEES

- Non-engineers have been driving CN trains, including supervisors acting as conductors despite not being familiar with the duties required for this role. One of the places this has been reported was in the leaked Transport Canada inspection report for July 2006. This was also the case for the February 13th derailment near Prince George, where a train being run by management personnel during the recent strike derailed near the Intercontinental pulp mill.

- Safety advisories are not being provided by CN Rail to its union, despite a commitment to do so.

- Employees are not getting adequate rest between shifts when cleaning up from derailments, and often have less than 8 hours between shifts.

- Shift times for employees operating trains have increased from 10 hours under BC Rail to 12 hours under CN.

- We have heard reports of extremely poor living conditions in CN Rail “White Fleet” sleeping cars, where workers are required to stay overnight when working on remote track locations.

- Trains are going at excessive speeds when passing track workers or sleeping cars, even though trains used to be slowed down in these situations.

- An increased use of contractors has been causing tensions, and unionized employees feel that there has been an erosion of health and safety standards because contractors are not always obliged to have the same trains or follow the same procedures are unionized workers. For example, the leaked Transport Canada inspection report for July 2006 mentions a contractor fueling a locomotive without any protection.

- CN Rail has cancelled the joint union-management derailment task force that operated under BC Rail. This highly respected task force met about 4 times a year to hold serious discussions into technical issues.

- A full-time safety advisor was employed by BC Rail, but this position no longer exists under CN Rail.