

**Speaking Notes for Christine Collins, National President,
Union of Canadian Transportation Employees (UCTE)
to the University of Ottawa Lessons Learned from Lac Mégantic Conference
December 8, 2016**

For those that do not know us, UCTE is the national union for most of the workers at Transport Canada, the Canadian Coast Guard, the Transportation Safety Board, the Canadian Transportation Agency, Nav Canada and many of Canada's airports and ports. I am here because we represent the Rail Safety, TSB, and Dangerous Goods inspectors and investigators that enforce federal regulations and take action in the interests of rail safety and security. Our inspectors are given Ministerial delegations which give them the legal powers to enforce the regulations flowing from the *Railway Safety Act*, the *Transportation of Dangerous Goods Act*, the *Criminal Code of Canada* and other statutes that are part of the transportation inspector and investigator toolkit.

The tragedy at Lac Mégantic has had significant impact on Transport Canada and its people. Jobs have been lost and mental health has suffered. Although over 3 years has passed, the personal impacts are still evident.

As we all know, Transport Canada and the CTA have made significant improvements. There are new regulations for the staffing and securing of railcars; the DOT 111 TDG railcars have been phased out; new risk assessment, liability and insurance requirements have been put in place; new dangerous goods placarding and labelling requirements are in place; reduced speed limits have been imposed for urban areas; and more robust SMS regulations have been promulgated, etc. In the last year, \$143 million over 3 years has been allocated for rail safety which will result in upgrades to 400 grade crossings, and a commitment to new inspection resources, among other things.

Of course the million-dollar question and the key theme for this conference is: Is this enough?

When we look at the big picture, rail cars loaded with dangerous goods still travel through the heart of towns and cities, including our major metropolitan areas. Lots of people have talked about the urgent need to move rail lines and to force more rational track sharing in the interests of public safety, but nobody in government or industry has been able to find a practical and affordable solution to what could arguably be the most effective way to protect public safety for all time.

Specifically, UCTE has to examine the issue from its own perspective. Have the changes been enough for the inspectorate? The answer is no.

Transport Canada requires a safety culture, a culture that values safety over the wishes and whims of the railway companies and senior management who can be more concerned about ensuring financial viability rather than the safety of the travelling public. For our members, consistent with this is the perception that those that tow the party line are the ones whose careers advance. Those inspectors that take a hard position in the interests of safety are often cut adrift and flat lined. We believe this is a serious criticism that needs to be addressed in a meaningful way.

In its June 2016 report, the House of Commons Committee on Transport, Infrastructure and Communities made some significant recommendations for change. Among other things, the committee recommended:

- More inspectors, more direct and unannounced inspections;
- more robust and coordinated whistleblower protections;
- more real time TDG information to first responders and municipalities; and
- an expedited response and solution process to TSB recommendations.

These were recommendations that UCTE and others made to the committee as they were reviewing rail safety in the post-Mégantic world.

On October 5, 2016, Minister Garneau responded to the 19 committee recommendations. For the most part, the Minister agreed with all recommendations and a path to implement these recommendations has been established. The *Railway Safety*

Act review will commence early in 2017, and it is in this context that some measures, such as new whistleblower protections, will be considered. The commitment to more inspections, more inspectors and more training for inspectors seems to be sincere and a process to make these changes has begun.

Rail Safety is hiring 12 new inspectors and SMS auditors now but some of these hires relate to retirements and the filling of currently vacant positions. There is a commitment to hire and maintain 106 inspectors out of a full staff complement of 136. UCTE is closely monitoring these developments but it is important to realize that this is not a significant change in the inspectorate complement or the resources dedicated to inspections. We do not believe this is consistent with the new financial resources dedicated in the last budget, nor is it consistent with the commitments made to the Committee by the Minister. We will continue to monitor developments in the event more inspector resources are contemplated.

Rail Safety is the only safety division at Transport Canada that actually separates safety inspectors from SMS auditors. Other divisions have inspectors doing inspections and SMS audits and in the case of Aviation Safety nearly all the inspectors are doing SMS audits rather than inspections. In this case, SMS has become a replacement layer for inspections. This is a development that UCTE deeply opposes.

The type of people that TC is hiring for SMS audits are also not the highly trained and specialized inspectors that we believe are essential to transportation safety in Canada. The employer is consciously looking for softer skills such as communications, writing, management etc. and we are not convinced this is a positive development.

It is important to understand that with the Auditor General, TSB and others calling for more SMS, TC is interpreting this as a guidepost for replacing inspectors with auditors. This is completely wrong headed in our view. This is a development that has overtaken Aviation Safety. We are worried that this also might be happening with Rail Safety. Where Rail Safety was once a division that prided itself on robust, effective and efficient

inspections by highly trained and industry-experienced inspectors, it is increasingly diverting resources and attention to SMS regulations and audits. One function should never be a replacement for the other. When we asked a few weeks ago, Transport Canada agreed to provide us the number of inspectors versus auditors that they were planning to hire. Unfortunately, we are still waiting for this number.

One of the alarming things about pre-Megantic policy making was the ability of railway companies and their Association to convince TC senior management that regulatory exceptions should be made. The exception made for MMA due to this lobbying was to allow for one engineer to be responsible for securement and security while trains were idle in rail yards. I need to point out that this was contrary to the recommendations made by the experienced inspectorate. Recently, we learned that Rail Safety will be setting up an online consultation and reference tool- a tool that will allow the public to be consulted and informed when regulations are being changed or exceptions are being considered. Again, we will monitor and report back publicly as these positive changes occur.

It is not widely known but at the tail end of the Harper administration, all the TC transportation safety divisions were given hiring targets that exceeded the estimated minimum inspector allotment by mode. New hiring took place and there were modest 5 to 10% increases in total inspector complement, particularly for the rail and TDG modes. Unfortunately, the Harper administration did not dedicate additional salary dollars to cover this increase.

When the Trudeau administration came in over a year ago, they imposed a Treasury Board oversight body for all TC expenditures, particularly those related to inspector hiring. The result was a year of freezes and cut-backs. The winter 2016 budget estimates for 2016-17 flat lined rail safety and reduced the dangerous goods budgets. With the March 2016 budget, a \$143 million 3-year allocation has yet to be fully rolled out so we are not at all sure whether the Standing Committee's recommendations will

be fully implemented with this new money. Nor are we convinced yet that significant new inspectors will be hired and resourced.

Perhaps most importantly though, our inspectors need Transport Canada to adopt a safety-first culture. Many inspectors who put the safety of Canadians first pay a significant price in their careers – very few if any of them find themselves at the top levels of management. The fact that top level regulatory personnel have not been formally held accountable for the safety culture is regrettable. A change such as this would codify and respect safety before all other considerations. It would protect and respect those that take positions and actions that might deviate from the wishes of industry or political considerations.

To recap UCTE continues to recommend that:

- we need more experienced and highly trained inspectors;
- we need more direct and unannounced inspections to ensure conformity with robust regulation;
- we need to separate the SMS auditors from the inspectors within each transportation safety division;
- SMS compliance should always be a complementary function to full inspections. SMS audits should never be a replacement for inspections;
- we need to simplify the language and the administration of audits and inspections;
- we need one responsible executive by mode and this should clearly be the modal director generals. Modal director generals should sit on Transport Canada's senior management team and the regional director generals should not be in a position to overrule the modal director generals;
- we need more enforcement and penalties for violations. Multi-modal inspection teams, such as one that has both rail and dangerous goods inspectors, should be the norm;
- we need stronger and more rationalized whistleblower protections;

- we need to make better use of technologies, including real-time electronic monitoring of dangerous goods cars, available and reported to municipal first responders

In conclusion much has been done, in a very positive way, to address the post Megantic world. We know that TC management have taken steps to ensure that the lessons learned from Megantic are internalized and reflected in the path forward. At the same time, UCTE remains concerned about the tendency to use SMS as a replacement for inspections, the focus on the hiring of non specialized personnel for the SMS audit function, and the lack of a safety-first culture. These important issues need to be addressed by the leadership at Transport now.

I look forward to the discussion on these important issues.