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Chair

Mr. Mervin Tweed

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•(1110)

[English]

The Chair (Mr. Mervin Tweed (Brandon—Souris, CPC)): Thank you, and good morning, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, pursuant to Standing Order 108(2), the study on rail safety in Canada.

Joining us today is Mr. Paul Miller, who is the vice-president and chief safety officer of CN.

Welcome, and I apologize for the late start. I know you have a brief presentation, and our committee is very anxious to ask questions, so please begin.

Mr. Paul Miller (Vice-President and Chief Safety Officer, Canadian National): no thisThank you, Mr. Chairman.

Next month will mark my 30th year with CN and my first anniversary as CN's chief safety officer.

I'm very pleased to appear before you today on the issues of railway safety and the Railway Safety Act review panel report. I'll make my remarks very brief in order to maximize your time.

As you know, railroading can be an unforgiving business, with heavy equipment sometimes moving at a high rate of speed on the main track, sometimes carrying products that are deleterious to human health or the environment, and with some of the most challenging weather and geography the continent has to offer.

Nothing is more important to CN than running a safe operation. There are two reasons for this. First, and most importantly, it's because we have a moral obligation to protect the health, safety, and well-being of our employees, our customers, the communities through which we operate, and the environment. But it's also because we simply cannot be successful if we do not operate safely. Any accident or incident has the potential to result in direct costs, delays, congestion, unavailability of people and equipment, and diverted attention. We cannot deliver the service required to maintain or grow our business if we are dealing with disruptions. Thus, safety is an obligation we take very seriously, and it is also good business.

This commitment drives CN's actions with respect to safety, which can be grouped into two main pillars. In the interest of time, I'll give you just a few brief examples of each.

The first pillar is on the technology and investment side. We are reinvesting about \$1.5 billion back into the company in 2008, for a five-year total of about \$7.3 billion. About 85% of this investment has direct safety benefit: infrastructure renewal, rolling stock acquisition and refurbishment, and systems replacement and

upgrades. We're very pleased with the panel's comments about our investments, at page 182 of the report. We're also pleased that our financial performance allows us to continue to reinvest in the industry at a leading rate. We're further increasing ultrasonic rail flaw detection, and we're further increasing the density and capability of our wayside inspection system. These are just a few examples of the things we're doing on the technology and investment side.

On the people and process side, we're investing very heavily in hiring and training. Since the beginning of 2007, we have hired about 3,000 employees, 2,400 of them in Canada. We've spent about \$14 million training new and existing employees in Canada, plus another \$14 million for replacement salaries while existing employees are on course. We've translated our safety management system into concrete action steps for our front-line managers. We've revised key policies such as train handling and streamlined operations documentation, and we're focusing our field audits on higher-risk activities, territories, and employees.

What are the results of some of these actions?

In 2007, we saw a reduction in total accidents, non-main track accidents, and personal injuries in Canada. Non-main track accidents and personal injuries are typically caused by people and process issues, so we were pleased with that trend. However, we did see an increase in the number of main track accidents, which are typically caused by track, equipment, and weather-related issues. Given that nothing is more important to us than safety, we cannot be satisfied with our performance. One accident of any type is one too many.

In closing, please allow me a few words on the report of the Railway Safety Act review panel.

First of all, CN believes the panel did a rigorous and very fair assessment of the act itself and issues surrounding it. Indeed, while we think a number of the recommendations require more detailed discussion with Transport Canada and the rest of the industry, we don't disagree with any of the 56 recommendations the report contains. We do feel that they had an opportunity to make an additional several, but they did a very professional and thorough job. However, when the panel chair, Doug Lewis, appeared before you last month, he emphasized two points that I'd like to briefly discuss.

The first is CN culture. Much was made, following the release of the report, of the report's brief comments alleging a culture of discipline at CN. I found it interesting to go back and read the report of the commission of inquiry into the Hinton train collision of 1986, which characterized CN's culture at that time as placing insufficient attention on rules observance and tacitly accepting rules violations. That commission noted that the normal practice at that time was not to record first offence rules violations, and it asked out loud how a second offence would ever come to light as a result.

CN has been on a long journey of culture change. We're moving from a culture where both managers and employees sometimes treated standards and policies, even safety-related ones, as options, towards one where all people at all levels of the company will be held responsible for their decisions and their actions. It takes time and can be painful, but it is necessary in order to be successful across all dimensions of our business, including safety.

• (1115)

With all due respect to the panel, we don't accept the notion that this translates into a discipline-based approach to safety. CN believes it is our responsibility to ensure that people are properly trained and equipped, that the work is properly planned and supervised, and that safe work processes are in place.

We also believe that when an investigation of an accident or incident points to a human factor as a cause, we must attempt to understand why that failure occurred by asking ourselves if the system I just described was in place and working—and that's, of course, our safety management system.

Where we respectfully diverge from the panel's comments about our culture is that, unfortunately, after all of that, we sometimes find that a person has simply chosen a poor course of action that has led to an accident. More frequently than we'd like, further investigation indicates that the employee in question may have had similar issues in the past. Just as society would hold someone accountable for exceeding the speed limit in their motor vehicle, we strongly believe that we must hold people responsible for their choices and actions in the workplace, otherwise improvement is not possible.

On pages 70 and 71 of the report, the panel cites specific positive examples of the culture-enhancing activities of our peers and health and safety committee member involvement in accident investigation—an approach that takes on cardinal rule violations and employee observations with immediate feedback. Perhaps some of the panel's comments stem from poor communication on our part, because at CN, we do all of these things as well.

Finally, and very quickly, on safety management systems, CN fully supports the panel's observation that SMS is the correct

approach to continuous safety improvement in our industry. This is why we have taken the safety management system regulations as the basis for our 2008 safety plan and have translated them into actionable steps. It's also why we hosted an SMS workshop for our union-management health and safety committee last December. SMS will always be a work in progress, and we look forward to working with Transport Canada and our union leaders and industry partners to continue the journey.

Thank you, Mr. Chairman. I look forward to your questions.

• (1120)

The Chair: Thank you very much.

Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Miller. I'm pleased to see you here.

I have some questions. You mentioned a change in culture and referenced safety by saying that nothing is more important to CN than safety. I wanted to ask a couple of questions on this.

I noticed that you mentioned that you are just approaching your first anniversary on April 25, I think, as CN's first safety officer.

Mr. Paul Miller: Yes, sir.

Mr. Don Bell: I noted that your position before that was in operations, I think it was.

Mr. Paul Miller: That's correct.

Mr. Don Bell: I guess the concern that came up was that when we started this, almost two years ago this fall, with a motion from this committee—and subsequently the minister appointed the panel that resulted in this report—it appeared that the level of incidents and derailments, particularly in western Canada, but also right across the country, was higher or had spiked up the year previously. There had been a number of serious accidents resulting in death or serious environmental impact, such as at Lake Wabamun and at the Cheakamus River, and the deaths of the locomotive team in British Columbia, and others.

It appeared, and specifically with respect to CN, that safety was not as important as you state it is now. I guess I would note with some interest that your appointment as the first officer was only a year ago, after this inquiry and the panel's report were begun. I'm assuming to some degree that as a result of those two, CN has recognized the importance of the focus, or refocus, if you want to call it that, on safety.

Is that a fair statement?

Mr. Paul Miller: Yes, sir.

Mr. Don Bell: I appreciate that, and I'll come back to it in a second.

The issues I have relate to some of the recommendations. I refer you in the panel's report to recommendation 19 on page 210—I'm looking now at the summary of recommendations—and on page 211 to all of recommendation 24.

Recommendation 19 relates to safety management systems and would relate primarily to the company, in this case—it's "companies", but to CN, since we're talking with you right now—and it talks about the effectiveness of local occupational health and safety committees and the involvement of employees in identifying hazards and assessing and mitigating risks as part of safety management. This, as we heard in some of the testimony, had not been as diligently attended to as might be desired.

Recommendation 24, in a sequence of seven recommendations, again focuses on safety management systems, saying that this is a combination of effort that's required between Transport Canada and the companies that are involved.... I would note the seventh sub-bullet, the bottom one, which is the "means of involving railway employees", and number 3, the "measurement of safety culture".

I'm hoping that what I will hear from you, with your statement that nothing is more important to CN than safety, is that the way of doing this is not what appeared from the testimony we had to be one of discipline—a "culture of fear" was the way it was described in the testimony and in the report—wherein employees were intimidated to the point that they were afraid in many cases to pursue their concerns and that the use of these health and safety committees was minimized and bypassed.

I think we have passed a written translation.... I have a photograph, which perhaps, Mr. Chair, could be circulated to my members, and I've given a translation—or one is being done—to the Bloc. It's a photograph of a sign that was in the CN office when I was in Prince George. There was a derailment in the yard in which an engine had T-boned a train and we had a gasoline tanker explode. This was a sign on the wall. I was taking a variety of pictures, and I noted it.

At that time, as you can see on the list of "how we work and why", safety is fourth out of five topics. The first three are: "service is our product"; "cost control is our ongoing challenge"; "asset utilization is our advantage"; and finally, "safety is every employee's responsibility".

I would point out there the subtlety. It says, "every employee's responsibility". It doesn't say "the company's", or "...is everyone's responsibility"; it lays it on the employee. I wouldn't diminish the fact that safety needs to be the employee's priority as well, but it needs to be the company's corporate priority.

I was disappointed to see that, I guess, but I'm very pleased to see the actions that have been taken by CN with your appointment and with the attention that would appear now to make it a new focus, if you want to call it that, or renewed focus. I'll give you credit for that.

It includes not only, though, involving the employees, because their lives are the ones on the line; it also includes addressing the issues—and you mentioned Hinton—that deal with fatigue, which has to do with the way in which you operate. One of the concerns we had in British Columbia was that it appeared, when CN took over BC Rail, that they brought what is known as, I gather, water-grade railway operating procedure to a mountainous terrain. In other words, I don't think CN fully appreciated the challenges of the curves and the grades that British Columbia represented and that seemed to be reflected in some of the incidents that occurred—and of the length of the trains, which were restricted in numbers at times.

I'm pleased with your comments, your testimony, and I'm hoping that you indeed are able to follow through on the issues of training, of fatigue, and making this a priority in your company.

•(1125)

Mr. Paul Miller: Do I have a moment to respond?

The Chair: Absolutely.

Mr. Paul Miller: To your point, sir, about health and safety committees, that's an initiative we have under way already. We're asking all of our health and safety committees to self-evaluate. All the members supply us with an evaluation of how they're doing in terms of their training, their proactiveness, and so on, and we are trying to get back out with the best practices we find, because we feel this is a very valuable tool by which to engage the employees.

As to this sign, all I can say, sir, is that this is not a numbered list; it's not an order-of-priority list. I hope you take me at my word that nothing is more important to us than operating safely.

The Chair: Thank you, Mr. Miller.

Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much, Mr. Chairman.

In your presentation, you talked about the culture change and the fact that you didn't necessarily agree with the committee's recommendations. That concerns me a little. On page 79 of the French version of the text, which corresponds to page 71 of the English version, the report states, in the second paragraph:

In the Panel's opinion, over-reliance on discipline does nothing to support healthy management-employee relationships so vital to an effective safety management system. Such relationships must be built on openness and trust and this is difficult or impossible to instill in an environment where employees are constantly fearful of disciplinary action.

That's an allusion to the remarks by Ms. LeBlanc, who, following an accident, stated in a brief that CN had a culture of blame and that it punished rather than educated or remedied the situation.

You've just been hired as chief safety officer, and already you don't agree with the committee's recommendations. I would like you to explain to me why you don't agree with Mr. Lewis, who wrote the report. What don't you like in the report?

• (1130)

[English]

Mr. Paul Miller: Sir, we don't disagree with any of the 56 recommendations the panel has made. We feel there's more work to do, and we're very pleased with the structure that Transport Canada has put in place to involve consultation with unions, with employees, with other railway companies, and with us in terms of bringing these recommendations down to the next level of implementation. Some of them will require change in companies such as ours. Some of them might require legislative change, and so on. And that's a process we're just getting under way with as an industry.

I don't disagree with the paragraph you just read. Where I disagree with respect to the panel—and frankly, it's probably more with some of the resulting comments from the press that came out from the panel's release—is that this is what CN is about. We do not feel we have an overreliance on discipline. It is not our intention to have a culture of fear and discipline in our company.

We firmly believe it is management's responsibility—to one of Mr. Bell's comments—to make sure the system is in place and working properly: people are trained; people are equipped; there are enough people to do the job; the work is properly planned and laid out, properly supervised; and employees have an opportunity to raise safety concerns.

I'm not saying we're perfect, because as we've said all along, and I believe as the panel has said, SMS, and SMS implementation, is a journey that is still under way. We have some way to go. But that's our intention of how to manage this.

We don't disagree with the statement that was made. We disagree with the characterization that this is how CN intends to manage safety—and it's not.

[Translation]

Mr. Mario Laframboise: Mr. Miller, in the wake of its analysis, the committee made a highly relevant comment, I think, on how CN operates. It's not without reason that this safety culture prevented the safety management system from being entirely effective. I am astounded to hear you say you don't accept the advisory panel's finding, when it concerns precisely the first problem you should have identified.

The culture has to be changed, as was done at Transat and Via Rail. The only way to do that is to ensure that employees and management work hand in hand. As a first condition, it must be ensured that the one doesn't accuse the other; otherwise, the entire safety management system will never work. I wonder why the safety management system hasn't worked in the past seven years, whereas it should have worked. At CN, I got the beginnings of an answer. There is a culture there in which people look for the guilty parties. It's never the fault of the company or managers, but always that of the employees. That's why it doesn't work.

Today, you say you approve of certain recommendations, but not the finding. So if CN doesn't see its problem, it will be in the same

situation in seven years. I'm staggered by your remarks. And yet this is an in-depth analysis, based, among other things, on statements made by Ms. LeBlanc after accidents had occurred.

You deny the finding that such a culture exists at CN, which is tantamount to saying that things won't change. You'll try to change the safety management system, but you'll continue using the stick method rather than show some openness toward employees.

I would really like you to present things to me in a different light.

[English]

Mr. Paul Miller: Sir, all I can say is what I said before. It's not our intention to have a big-stick approach, a culture of discipline and fear. We want to work with our employees. For example, when they're doing their audits of rules compliance, we've charged our supervisors with the responsibility to immediately speak with the employees, have a two-way discussion about safety, not just what they've seen at that time but other safety concerns employees have.

We do not discipline employees for bringing forward safety concerns. We know we have to have that communication. Employees see the action from day to day.

• (1135)

The Chair: Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

Just to continue a little bit on this, not to belabour the point, but it is important with regard to safety management systems being adopted as an ideology of change. Where do you believe you are in terms of reaching the final goal for SMS in terms of operating at the best capacity possible for your company?

Mr. Paul Miller: I forgot to note the page, but the panel put in a continuum that I thought was very interesting. As I read that continuum, I found elements of what we're doing in levels two, three, four, and five. We're not a five; we're not a four. We have a journey to go through that's been under way for probably longer than any of us would like, but SMS is a big change from how our industry was managed from a safety perspective for many years. We're three in that continuum.

Mr. Brian Masse: Have you set a business plan in terms of expectations of reaching level four in x amount of time, and level five, and when it becomes clearly unacceptable, or what you're going to do if you can't reach there? Is there an incentive plan to move toward that? What strategy are you employing to deal with this, other than just trying to...? I imagine you're not just trying to bully your way into the forefront.

Mr. Paul Miller: Right. Our basic targets are set by performance and results and comparison and trend analyses, so we look at actual results, accidents and incidents by cause, by location, by any number of factors we can look at, and try to take action where we see anything going off track.

For example, today we have a system-based committee working with employees in the southern U.S., because we've seen a significant increase in personal injury accidents in that part of our system.

This is fairly new material to us. To answer your question directly, we haven't gone through that and asked what part of that we have to get to next, but it will be a very worthwhile exercise.

Mr. Brian Masse: Okay. To be fair, I'd like at least to hear some more detail with regard to the recommendations. You're very clear in saying you didn't object to any of the recommendations, but you found several that caused you to express—I don't know if “express” is the word you used. You raised concerns over a few of them. Can you lay out which ones may be somewhat troublesome or have some aspects that give concern?

Second, you also mentioned several that did not get in. You might want to take the chance to put them on the record here so that we're aware of them.

Mr. Paul Miller: Certainly. I appreciate that.

This will take a bit of time to go through, but I'll give you a couple—

Mr. Brian Masse: Yes, give a couple, and maybe you can follow that up with documentation.

Mr. Paul Miller: I appreciate the offer for that.

An example is a recommendation that all dispatching be done from Canada. We agree with that. All our dispatching for Canada is done from Canada now, in our rail traffic control offices in Edmonton, Toronto, and Montreal.

Where there's a bit of a nuance is at the border. You don't tend to have a control point right at the international boundary between Canada and the U.S. One of our most important places is at the bottom of the Sarnia-Port Huron tunnel. We don't want to stop a train there in order to hand off control to another country, so we'd like to have some discussion with Transport Canada and others, and with our union of rail traffic controllers, to have a little bit of flexibility at the border locations. Other than that, from a general perspective, we don't have any problem with that recommendation. It's that type of thing. It's more getting it down to operationalize it.

In terms of things that we had proposed to the panel, many of which found their way into the report and into the recommendations, we were hopeful that there might be a recommendation concerning drug and alcohol testing, and—this is a minor point—we were hopeful that there might have been a bit more of an opportunity to harmonize some of the reporting regulations, accident reporting formats, and so on between Canada and the U.S., because we're increasingly becoming a company that operates in both Canada and the U.S.

Those would be examples. Frankly, those two are the only ones we would have asked them to add.

• (1140)

Mr. Brian Masse: I want to revisit the issue of discipline. What are you effectively doing with employees? What programs are you doing to at least show by management leadership to the union that you're addressing this issue to provide the supports and the confidence that people will not be penalized? Do you have actual programs in place, or tangible things that are being employed to break down that element?

Mr. Paul Miller: Of course, actions speak the loudest in that regard, so we just have to be forever on our guard, for example, when an employee brings forward a safety concern—an indication that there had been a near miss or a possible incident—that the employee is not disciplined for it and that action is taken as a result. That is the push we're trying to put on. I've taken it as a bit of a personal push to try to watch across the system and ensure we take that approach when these things develop.

Mr. Brian Masse: Thank you.

The Chair: Mr. Watson is next.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair. My intention is to split my time with Mr. Fast. If you can let me know when I've hit about five minutes, I would appreciate it. Thank you.

Thank you, Mr. Miller, for coming here. Mr. Bell earlier said that he was pleased with your testimony. I'm not. I find there are a lot of things that I'm having a lot of difficulty with.

You've gone to some length today to talk about holding people responsible. This really is the problem with respect to a culture of fear: it's still focused on disciplinary actions for judgments and decisions that have gone wrong. It's not the full, fearless involvement of people in pointing out the types of things that would prevent accidents. You're still stuck in the mindset underlying what the panel found to be a culture of fear.

You've belaboured this point today. I have a real problem with that, when you are talking about your “progress”. In the last appearance, when CN was before this panel before, they went to some length to point out how far they're going in punishing employees, to the point where I asked the question whether they can provide to this committee the number of disciplinary actions taken against employees. That's how far they went in making that point.

If you want to really boil it right down, not long ago I asked Mr. Lewis, who headed the panel.... I said, you talk about the continuum—that's pages 73 and 74, “An Evaluation Tool for 'Safety Culture’”, and you can read this if you'd like—but the best practice that you're looking for is the full implementation of SMS, which is stage 5 in the continuum. That's the only best practice.

Air Transat, VIA, those who are on their way are close to that particular point. That's where you see that there aren't safety issues or there aren't real safety problems, the types of accidents we're seeing with CN.

I asked Mr. Lewis where, on that scale of one to five, he put Transport Canada as the regulator; he put us at about a three. I asked where he put VIA Rail; he put them at about a four. I asked where he placed CP; he said in the mid-range, which would be about a three. And what did he say about CN? "Well, I'd put them between one and two in terms of implementing adequate SMS."

Step one—let's read it into the record:

At one end of that continuum is a company that complies with minimum safety standards and views compliance as a cost of doing business. That company minimizes compliance expenditures and operates from a short-term perspective, addressing problems only after it has been caught in violation. The regulator must engage in significant surveillance and enforcement activities.

That's stage one.

Stage two:

Next in the continuum is a company that views safety solely as compliance with current safety standards. Such a company has internal inspection and audit processes, as well as a system of reward and punishment. There is an assumption that compliance translates into safety, but such a company has not yet realized that compliance alone will not necessarily prevent an accident from happening. Intervention is still required from the regulator, though the approach may be more educational in nature.

That's pretty pathetic, Mr. Miller, and that's what they say about CN. You're asking us today to take your word that you're somewhere higher than that. You say you're not a four or a five—you're implying that you're a three—and that your long journey of culture change, you imply, has been started since 1986.

I'm not sure I'd be bragging that I started that long ago, because you have a lot further to go. Stage one and two: how do you respond to Mr. Lewis' assessment, Mr. Miller? I think the evidence backs him up.

• (1145)

Mr. Paul Miller: Well, with respect to both you, sir, and Mr. Lewis, I don't agree that we're a one or a two in this continuum. I certainly agree we have more to do in our management culture to improve in these areas, but that's not where I'd place us in this continuum.

I read here in stages four and five, for example, "include safety in its business and operational decision-making processes". We do that. "Safety is reflected in core values"; even the admittedly poorly worded and ordered sign that Mr. Bell provided us with shows that safety is in our core values.

Mr. Jeff Watson: Mr. Miller, with all due respect, stage four says: "The regulator's role is primarily one of monitoring the company's safety performance." We've had to issue a number of notices and orders. That's not simply monitoring the company's safety performance; that's very active intervention.

Mr. Chair, I'll cede my time to Mr. Fast.

The Chair: Mr. Fast, you have two minutes.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair, and thank you, Mr. Miller, for appearing. You're in the lion's den, obviously.

I challenge you as well, because I'm not pleased with the testimony I hear. I'd assumed somewhere along the line there'd be a mea culpa, there'd be acceptance of the fact that Mr. Lewis did his

job, made findings that were based on evidence. In fact, his findings back up what we heard from many witnesses under this rail safety study. Not only this study itself, but this committee's study has had many witnesses that all support the conclusions Mr. Lewis has drawn, that there is a culture of fear within your organization.

To try to address that issue of the culture of fear within your organization, clearly it's going to attract some legislative amendments to the Railway Safety Act. It's unfortunate. I had a chance to compare the rail safety regulations with what we've now done in Bill C-7, which makes amendments to the Aeronautics Act. Quite frankly, the Aeronautics Act amendments are very specific now as to what's expected, including the area of addressing reporting by employees. You're not going to get reporting from employees if there's a culture of fear. One of the clauses within Bill C-7 is, of course, immunity provisions, so employees cannot be disciplined if they report safety issues within their company. If amendments like that come forward for rail safety, are you, the company, prepared to support immunity as a concept that will be legislated and required under safety management systems?

Mr. Paul Miller: Sir, we don't have a problem with immunity as a general concept, certainly from the point of view of reporting. Again, we don't discipline employees for reporting safety problems, safety issues. Where I guess it becomes a bit problematic is where you get down to the operational level. You could have a case, for example, where an employee has unfortunately had a record of issues with a particular type of rule violation. Then they self-report or one of their peers reports another issue. I'm not sure how that would be handled in the—

Mr. Ed Fast: It was very clear that the aviation community was very supportive of immunity, right from management and pilots down to the workers. In fact, the workers wanted to go beyond that and go to true whistle-blower legislation. Immunity was accepted by that industry. I'm surprised there's not a wholesale acceptance of that concept by your company. We're going to get a chance to ask CP about that as well, and I'd like to know where they stand on that issue.

The Chair: I'll go to Mr. Maloney for five minutes, and he is going to share his time with Mr. Bell.

Mr. John Maloney (Welland, Lib.): Thank you, Mr. Chair.

The panel targeted management as an area of concern. In your estimation, is this a serious issue with your company? Are there a maximum number of hours that, say, train operators are allowed to do in a day or a week? If they exceed these hours, what tools do you have to manage fatigue?

Mr. Paul Miller: Fatigue management mostly relates to train and engine crews in particular in our industry, so I'll keep my remarks there. There's a rule and a set of implementation guidelines around that rule that's I think two or so years old now. I might not be quite right on that date. The industry worked very closely with the unions and with Transport Canada to put this in place. The way we protect against violation of that rule—and it does cover exactly what you asked, the number of hours per day, the number of days per week, the amount of rest between shifts, and so on—it's programmed into our crew-calling system. So if an employee is not available, based on potentially violating any one of those rules, they will not be presented to be called for work for that train or for that yard assignment. That's the protection.

Fatigue management is a very significant issue in our industry. We think the panel members did a very good job of identifying the relationship and the interplay between fatigue management science and what we would all like to do, as it then starts to get involved with collective bargaining issues. What train or what assignment someone gets called for will tell us what that person is going to be doing when and how much they're going to get paid, so suddenly the collective agreement starts to get involved.

One of the key things we can do for fatigue management overall is scheduling. The more employees are scheduled, the more they know when they're going to work, the better they can plan their rest strategies and so on, taking out some of the surprises that unfortunately we get now. We've been very successful with scheduling in our U.S. operations, and a high percentage of our train and engine crews are scheduled. It's moderately successful in eastern Canada, and there's still more work to do. Scheduling is less successful in western Canada, which has more to do with the nature of the operation. There are more unscheduled movements of coal, grains, sulphur, potash, and things of this nature, that don't run on a particular schedule.

• (1150)

Mr. John Maloney: What are the maximum hours, say in a day or week?

Mr. Paul Miller: Eighteen hours in a shift—please don't quote me on this—and 64 hours in a seven-day period.

Mr. John Maloney: Eighteen hours strikes me as a long time to be working.

Mr. Paul Miller: That's with a break between. For example, if you started your trip at a home terminal and went down to a turnaround point and, say, you got there in seven or eight hours, you would be able to come back after taking a bit of a break at that destination point. However, if the employee felt tired or thought it would be an unsafe thing to return, then they have the option of booking rest there, away from their home terminal.

Mr. John Maloney: Can they book rest in a motel, or do they go to a shack or—

Mr. Paul Miller: Yes, a motel or a company provided bunkhouse facility.

Mr. John Maloney: I would assume that some accidents occur because of defects in the cars you're pulling. Is that correct?

Mr. Paul Miller: That's right. Main track accidents tend to be related to either the track itself or the car equipment. So the rails and wheels are the two top causes.

Mr. John Maloney: Do you pull cars from other rail lines throughout the United States, and is there a policy of perhaps inspecting those for defects before a large train takes off down the track?

Mr. Paul Miller: Yes. It works in two different ways, but in Canada, where we do what we call a certified car inspection, it's based on a plan that we've submitted to Transport Canada, which they approve. We say this train will get inspected by certified car inspectors at such and such a location. Then we have a system of wayside inspection equipment spaced across our network to measure wheel gauges; out of ground wheels; hot boxes; hot wheels and cold wheels, which are an indication of brake problems. That's something we've been investing in very heavily over the past few years.

Mr. John Maloney: Thank you.

Mr. Chair, I'm not sure if there's more time.

The Chair: There is no time, I'm sorry.

Monsieur André, who is sharing his time with Monsieur Laframboise, five minutes.

[*Translation*]

Mr. Mario Laframboise: Thank you very much, Mr. Chairman.

I still don't agree with the Conservatives, far from it. However, when Mr. Watson talked about the classification suggested by Mr. Lewis, that is to say that, on a scale of 0 to 5, CN ranks between 1 and 2, you immediately challenge the idea. That's what hurts me. We've been analyzing safety problems for a number of months. Witnesses confirm the gist of the report. I think it's really unfortunate, when CN probably hired you as chief safety officer—you took up your duties quite recently, in April 2007—because it too had observed these problems, to hear you say today that the safety problems aren't those cited in the report, and that things are going better at CN than one might think.

This situation causes a serious problem for me. The act will be amended, and I wonder whether penalties will have to be increased and the directors and chief security officer made responsible. You don't seem to be aware of the fact that the reports and evidence revealed the safety problem at CN. Today, you should have admitted that the problem exists and have talked to us about the measures you intend to take to solve it, instead of which you denied the problem, while saying that you don't approve of the report's recommendations.

Is there or is there not a safety problem at CN, Mr. Miller?

• (1155)

[English]

Mr. Paul Miller: Sir, as I said in my opening remarks, any single accident, regardless of cause, is a problem. Safety is an issue for us. I think it's an issue that we take very seriously in the industry.

If we look to results and compare ourselves with our peers, the railroads in Canada are generally safer than the railroads in the U.S. I think people should take some pride in that here in Canada.

Do we have a distance, a considerable distance, to go in our journey of changing our culture, including our management culture, in safety? Yes, I've said that as well.

But as Mr. Lewis said, not everyone is going to be happy with everything we say in the report, and we took a little bit of exception to how he characterized where we were in terms of our safety culture. That's not to say there are no problems at CN; there are problems that we work on every day. I'm aware of them because of course I hear about every accident, every derailment, we have. I take them very personally and seriously. I attend many of them.

I certainly don't intend to appear here before you to say, no, there are no problems. Every derailment, every accident, and every incident we have is a problem that we're working on.

[Translation]

Mr. Mario Laframboise: I nevertheless asked you whether or not there was a safety problem at CN.

[English]

Mr. Paul Miller: There's improving trends in personal injuries and there's improving trends on the main tracks; we continue to work on it, sir.

The Chair: Mr. Jean is next.

Mr. Paul Miller: One accident is a problem.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

We on this side—the government side—would agree with you: one accident is a problem.

I have some questions that relate particularly to today and some questions that I would like to ask in relation to some other issues.

First, you mentioned you had recommendations in addition to what has come forward, and then you came back to admit that there were possibly only two. As a committee we would like you to provide us with all the recommendations, whether there are two or more than two, that you would suggest beyond the scope of this. Could you do so in writing?

Mr. Paul Miller: Certainly.

Mr. Brian Jean: The second question is not related to safety but to some issues that are floating around this particular place. Have any studies been done on the cost of putting GPS locators on each and every car and on the timeframe of the implementation of that? I'm not looking for that today, Mr. Miller, but I'm looking for it in writing as well, please—GPS locators on cars.

Third, does CN have any plans to destroy any hopper cars? I would like to have that response in writing as well. I don't know why, sir, but I've heard from a couple of members here in the last few days that there's some type of push by CN to destroy hopper cars, and I'm concerned with that. I would like that response in writing as well.

In terms of what's going on today, I want to talk a little bit about safety culture. I agree with Mr. Bell on this. I would suggest that CN look at some other examples around this country of a real safety culture. In particular, in my constituency of Fort McMurray—Athabasca, in northern Alberta, safety is a culture. It's a culture in the community; it's a culture at the Syncrude and Suncor plant sites in particular. It is a way of life there, and it certainly is far beyond what I see CN doing. I've lived there most of my life. They do have a safety culture and they live it every day. You can see it in everything they do.

Indeed, I'm wondering.... In your report, the closing submissions on page 3 say:

One of the key elements of CN's Integrated Safety Plan is the existence and implementation of effective Emergency Response Plans (ERPs).

You go on to say, and I quote:

The new ERP is designed to promote effective interaction with first responders, such as fire fighters, police, and government agencies at all levels.

That sounds great until a person realizes that you must have specific training—which is not available at just about any of those places across Canada on most levels—for chemical spills and emergency response teams. What does CN have in place, or what are CN's plans in relation to emergency response teams that work for CN and can go out to a site such as Wabamun or B.C. where there's been a spill that the local representatives do not have the training to take care of?

• (1200)

Mr. Paul Miller: Since Wabamun, frankly, we have put in place a network of dangerous goods officers located across the system. These are railway tank car and railway hazardous commodity specialists who are also trained in incident command and unified command theory so that they can integrate with local emergency responders.

We work with the Canadian Chemical Producers Association on a program called TransCare that we use to meet with and to provide training to local fire departments—in particular, volunteer fire departments—who often, as you say, are hard pressed to get this type of training. We've got an outreach program under way in British Columbia as a pilot program to bring local emergency folks in for additional training in emergency response and in dealing with chemical emergencies.

Mr. Brian Jean: I'm sorry to interrupt, but I'm worried about time because our chair keeps us close.

Am I to understand that CN has no first level of response, an emergency response team that goes out to a site immediately upon some accident happening?

Mr. Paul Miller: Yes, sir, we do.

Mr. Brian Jean: Is it a supervisor or a team?

Mr. Paul Miller: It is a dangerous goods officer. Mechanical supervisors are what we call dangerous goods responders; they don't have as high a level of training as the dangerous goods officer, but they are trained in the basics.

As well, any time a hazardous commodity is involved, we activate an emergency response assistance plan. We bring the shipper, for example, or contractors with whom we've already established relationships to deal with that.

Mr. Brian Jean: Can you provide us with information on their particular training and the response time? I'm sure you have set response times within which you expect these people to be on site. That's not for today, but certainly in writing I would appreciate receiving some semblance of their background and training, as well as their specialties on these chemicals in particular.

Mr. Paul Miller: Certainly.

Mr. Brian Jean: Finally, the main track accidents are up. There were 76 enforcement orders placed against CN by this government over the past couple of years, and certainly a minister's order and some other initiatives that we've taken, because safety is a concern to Canadians and we're going to take steps to make sure it's better. Main track accidents are up, and, as you mentioned, it has to do primarily with the wheels and the track, which is CN's responsibility. It certainly seems to indicate to me that where the government is doing well, we can't do any better unless we take more enforcement proceedings.

What is CN doing to make sure this equipment is fixed, so we don't have these 78 or 79 accidents, as we did last year on main track derailments?

Mr. Paul Miller: The main way we get at the main track issues, sir, is with investment and technology. Investment is replacing rail, acquiring new freight cars, and refurbishing freight cars. Technology is wayside inspection systems that bring together a host of information about the cars that pass by at 50 miles per hour.

Mr. Brian Jean: Has anything changed in the last year, or since you've been appointed, in relation to this?

Mr. Paul Miller: Yes, additional wayside inspection stations and additional rail flaw detection. We were already exceeding the regulatory minimum by a substantial amount and we're doing more.

Mr. Brian Jean: Can you provide us with specifics on that as well and the change in culture in the last year?

Mr. Paul Miller: Certainly.

The Chair: We have done the first hour.

Mr. Miller, in relation to Mr. Jean's request about a written response to the railcar destruction, my interest would be in the aluminum cars.

Mr. Paul Miller: Yes.

The Chair: The hour has expired and the people from CP have to leave at one o'clock sharp. Do we want to extend this for one more round?

• (1205)

Mr. Brian Jean: Mr. Chair, we'd be open to another minute for each party, if that's amenable.

The Chair: That's two minutes each, and I will be sharp on two.

Mr. Bell.

Mr. Don Bell: Thank you.

Your comment was that you don't discipline employees for reporting safety issues. I wanted you to know the testimony we heard at this committee was that employees were afraid to report safety concerns because they would be penalized for delaying trains. You need to know that.

I'd like to get a report from you in writing on the dynamic braking on locomotives in B.C. They were apparently taken off the locomotives, which we believe was a contributing factor to one of the accidents.

Second, I'm curious, as CN originally opposed the release of the audit that was ordered by the previous Minister of Transport under the Liberal government. That again is consistent with the concern of the testimony we heard here and on the panel.

Also, I'd like to say that I think you need to take a look at harmonizing or improving your communications with communities. When we heard testimony from the different municipalities, we heard CP was much better in responding than CN and that there was no cooperation.

Finally, on your suggestion that this photograph doesn't represent the hierarchy, if you go to the Prince George yard, this is repeated on five individual signs in another room, which go in descending order. They don't go horizontally and they're not shuffled differently; it's a descending order, and safety is the fourth down.

I want to clarify to my colleagues that when I said I was pleased, I'm not happy. I'm pleased you've been appointed and there is a change in focus. The point I made at the beginning of my testimony was that it appears since this committee began its work and since the panel was commissioned, there has been, I'm hoping, a recognition, and I'm taking you at your word that there is a recognition in CN.

I think the danger is that it's not simply what we heard from some of the senior people in CN when they testified before us that the concerns about safety were a perception rather than a reality, and they said that's your perception. Our point to them was that perception is reality. This panel's report has confirmed the reality of that perception.

When it says in the report there is a major disconnect between CN's stated objectives and what is occurring at employee levels, you don't blame the employees for that. You have to blame the company for not ensuring that those messages and policies are not only being enforced, but they're being transmitted and concern is being shown. When you have safety ranked fourth, in anybody's reasonable reading of this, you have to demonstrate that safety is number one.

The Chair: Mr. Miller, do you want to respond to that?

Mr. Paul Miller: To your point about perception, Mr. Bell, accidents aren't perceptions, I have to agree with you there. When an accident happens, that's a real thing we have to deal with.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: What is the most important safety measure you have implemented since you took up your position?

[*English*]

Mr. Paul Miller: We've really tried to bring about a much deeper understanding of what safety management systems mean to us, both in terms of what we have to do as the management of the company and of the opportunities they afford to us. Quite frankly, prior to my appointment, I think we thought of safety and the safety plan as one thing, and then the safety management system was something completely different; it was kind of over here and off to the side.

We've done a lot of work to say no, it's one thing. A safety management system has some very basic precepts about employee involvement, risk assessment, data collection, and analysis. One of the main pushes I've had in the past year is to try to bring about that understanding.

One other is to take what could arguably be—and I wouldn't argue with it—a lot of documentation that we expect our employees to know and live up to and try to streamline it, simplify it, make it more actionable and meaningful for them.

The Chair: Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

It's unacceptable that we continue to have accident growth, even though there is the fact that their lines are being used more than ever before.

One thing that gives me concern about your testimony in particular is that there doesn't seem to be a business plan in your organization to demonstrate a workable solution to some of the culture issues, of employees feeling comfortable enough that they can report under safety management systems and not experience repercussions.

I know you're arguing that by example—by not having incidents, and so forth—you can create that element, but I'm not so sure. There hasn't been enough work done to create specific elements with the

union to show that they're derived, not only in terms of procedures but also of programs and services, to develop that element.

Lastly, what is most important is some benchmarks for the company and its management—not just for the employees—and expectations on that management to meet those or to admit failure and put in the implementation necessary to fix the situation.

• (1210)

Mr. Paul Miller: I don't disagree with that at all, sir. This is probably not at the level you're searching for, but as a first step, we did take the safety management system regulations and translate them into what we expect our front-line managers to do. There are things in there such as outreach to the communities, which came up before. There are things about working with the health and safety committee in ensuring their effectiveness. These are probably not giant steps, but steps towards the goal you suggest.

The Chair: Mr. Watson.

Mr. Jeff Watson: Thank you, Mr. Chair.

Mr. Miller, the report points out two successful organizations with respect to implementing SMS that are pretty far down the track, so to speak: one is VIA; the other is Air Transat.

Has CN consulted or does CN plan to consult with either of those two agencies on how to improve SMS? Have you?

Mr. Paul Miller: I have not. I sit on committees with VIA Rail and I have the contact names at Air Transat. I have just not made that contact.

Mr. Jeff Watson: So you will be consulting them, then?

Mr. Paul Miller: Yes, sir.

Mr. Jeff Watson: As I think you can see from the committee, and as well from the government in undertaking this rail safety review, it's all about safety. That's where Canadians are—it's certainly where this government is—and I think by extension this Parliament is concerned with the safety of Canadians, and particularly with CN's performance or lack thereof.

The last time CN was here, I asked a very simple question, as my opening question, with respect to safety. I asked, "Will you admit that CN has broken trust with Canadians?" The answer I got from the CN official was that he was willing to admit there is a perception that CN has broken trust with Canadians.

This is my final question and the final question from this panel to you, Mr. Miller. I'm going to ask the same question: are you prepared today to admit that CN, with respect to safety, has broken trust with Canadians?

Mr. Paul Miller: Well, having personally lived through a couple of these big accidents, back in 2005 in particular, we certainly broke trust with Canadians and people locally at that point, and that's what we're trying to rebuild, step by step.

Mr. Jeff Watson: Thank you.

The Chair: Thank you, Mr. Miller, for attending today. We appreciate your time.

We're going to suspend for two minutes, and our next set of witnesses will come forward.

• _____ (Pause) _____

•

• (1215)

The Chair: Thank you, and welcome back.

Joining us now, from Canadian Pacific Railway, we have Mr. Brock Winter, senior vice-president of operations, and Mr. Glen Wilson, general manager, strategy planning and regulatory affairs.

I will advise the committee that these gentlemen have to be out of here at one o'clock sharp, so I'm going to try to keep the timelines as tight as possible.

Please proceed, and welcome.

Mr. Brock Winter (Senior Vice-President, Operations, Canadian Pacific Railway): Thank you, Mr. Chairman.

Just to comment on why we need to be out of here quite sharply, I need to get back because we're doing our annual president's awards at CP and are recognizing a number of teams and individuals for outstanding safety behaviour that we experienced in the last 12 months.

Good afternoon, members. On behalf of Canadian Pacific, I would like to thank the committee for your invitation to appear before you today to discuss rail safety in Canada. My name is Brock Winter; I'm the senior vice-president of operations. I'm joined by Glen Wilson, general manager of strategy, planning, and regulatory affairs.

Given that we have not had a fulsome opportunity to present CP's approach on safety to the committee, I would like to spend a few minutes up front to discuss our approach to this critically important element of our business before delving into our comments on the Railway Safety Act review panel's report.

To summarize CP's position up front, we strive to be a North American leader in rail safety and in our dealings with communities. The facts support our claim, and we will illustrate this to you today.

Our safety culture is an integral part of our operations, and we're achieving results. In fact, CP leads all North American class 1 railroads in North American operations safety. Our commitment to safety never wavers, as the safety and health of Canadian Pacific employees and the safety of our operations are of paramount importance to everyone who works for our company.

A decade ago, CP realigned its management team and in the process created a consistent, visible focus on safety that has achieved extraordinary results. Since then, we have seen a 76% decrease in personal injuries and a 73% decrease in train accidents. Our train accident record, measured using FRA reporting criteria, has been the best among the large U.S. railroads for eight years out of the last decade, and in 2006 was 60% better than the average U.S. rail industry performance.

CP's safety success is a testament to the commitment and involvement of its management and employees in hundreds of safety, health, training, and business process activities. We have been building a safety-conscious culture whereby safety is built into our business processes. It is not a bolt-on activity or afterthought; it is how we do business.

We have consistently approached safety management using the seven key principles listed on the first slide. All of them are important factors in our safety success. Our employees recognize these efforts. On our employee insight surveys, conducted every two years, safety gets very high marks.

The graph on the bottom left of slide 1 illustrates two things. The first is that 70% of our employees agree or strongly agree with the statement that at CP workplace safety is a key priority. But also, there has been a significant improvement in this metric over the last few years.

We want to continue to improve on these results, and one thing we have learned at CP is that safety vigilance can never take a holiday; it's a 365-day-a-year job, 7/24.

The next question is how we get there and how we can ensure continuous improvement going forward. Slide 2 provides more detail on how CP manages safety. We have both a top-down and a bottom-up approach. While there is some top-down direction setting, we encourage and rely upon local initiatives and actions.

This requires an environment of free-flowing communication. We have three levels of joint union-management safety and health committees, including over one hundred workplace committees, four functional policy committees, and one senior policy committee. This structure and the processes we have built into safety management oversight ensure a consistent approach, with a constant focus on improving all aspects of safety.

Lastly, turning more specifically to train operating safety, we want to give you some idea of what it takes to operate a railway safely. Slide 3 depicts the four major operating elements: track, equipment, train operations, and the outdoor environment, with the human factor overlaying all the basic elements.

It has been said that railroading is an outdoor sport. We operate in all types of weather through all types of terrain, and this greatly influences our approach to managing safety. Most of our efforts go into preventing accidents. In the distant past, say 30 or 40 years ago, the primary defences we had to deal with prevention were all manual: things such as inspection and maintenance, many of which are still regulated to this day. These elements are depicted at the bottom of the slide. These activities continue to form the fundamental base of our proactive prevention processes. They include things such as track inspection, maintenance and renewal, equipment inspection and repair, train brake testing, and operating rules and practices.

- (1220)

Starting in the late 1970s, technology began to play an increasingly important role, with the widespread introduction of signalling systems and the first generation of wayside detectors and hot box detectors. These were designed to detect high heat levels on wheel bearings that were about to fail.

Technology now plays a much more significant role in our prevention efforts. The next generation of wayside detectors—acoustic detectors—do not use heat to determine failing bearings; they use the sound those bearings make. This new technology gives us a much wider margin of safety.

On the track, we now use advanced ultrasonic technology to detect flaws that are starting on the inside of steel rails, and we use GPS technologies to pinpoint any defects that are detected.

What really has enabled CP to be the North American leader in safety is our focus on the human factor. All humans make mistakes, many mistakes every day, from forgetting to do something, to misplacing something, to misunderstanding an instruction, or getting distracted. We have systematically tried to understand how and where human error has played a role in accidents and to improve those underlying elements that led to an error or a series of errors causing an accident.

To assist in this effort, we have an industry-leading set of investigation tools that encourages understanding of the multiple causes of accidents and promotes corrective actions that address all aspects of casualty, particularly at the interfaces between people and processes. We also have industry-leading train accident investigation cause-finding material, and about 1,500 managers and employees have received training so that we maximize the opportunity to learn from accidents that do occur and prevent their happening again.

Now let me discuss the importance of new technology in preventing train accidents. New technology provides a major opportunity for continual improvement.

The key word here is prediction. We call it the predictive mode. In the past, there was no precise way of knowing when a piece of equipment would fail. In many cases, a failure in a wheel bearing or axle can result in a major event such as a derailment. Over the last 20

years there have been major improvements in predictive technologies. The opportunities available now and in the next few years provide great potential to enhance safety through predicting equipment failures before they happen, rather than reacting to them, as in the past.

We would also like to make the committee aware of our approach in dealing with communities, especially when unfortunate incidents like derailments occur. We want to be clear: CP's highest priority is safety and the community. Our actions are not ad hoc and developed on the spot; rather, they are driven by strict protocols, which have demonstrated results we are proud of. We work with communities we run through by developing key relationships and contact information in advance. We ensure that there is an emergency response plan in place, one that has been shared and tested with communities and emergency services, and we ensure that we have dedicated professionals available 24/7, 365 days of the year, to respond to any incident that has the potential to negatively affect the environment.

Now I would like to spend a couple of minutes commenting on the work of the RSA panel. After that, we can take any questions you may have.

In general, we think the panel's report is well researched and thorough. We commend the Honourable Doug Lewis, the other panel members, and their staff for this work. At CP, we offered them the opportunity to put their safety gear on, get out on our railway, and interact with our employees, our managers, and our safety and health committee representatives. Whenever the panel interacted with our employees at CP, we offered them the chance to speak privately with those employees. I feel very comfortable in saying to you that we gave the panel unfettered access to our operation and to employees from all levels within our operation. We did these things in an open and honest effort to show them our operation, and we respect that they availed themselves of those opportunities.

This does not mean that we think we have everything right; far from it. The operation of a railway is a very complex undertaking. But looked at on the whole, we think the panel did a good job in fulfilling its mandate.

I do not have time here today to delve into the details of all 56 of the recommendations, but I would like to comment on a couple before taking your questions.

With regard to proximity issues, we are grateful that the panel recognized the efforts of the industry in this area, but we cannot emphasize strongly enough the risks presented by the continuing lack of attention to development adjacent to railway services. The panel was on a train when they watched in horror as a young child trespassed on our property at Wetaskiwin, Alberta. We are glad that the panel's report recognized the intervention of one of our train crew members to speak to the children involved that day. Frankly, our train crews confront these kinds of issues every day all across Canada, and they often do not have the ability to speak to the children directly involved.

● (1225)

The panel remarked that new developments near railway tracks are a multi-jurisdictional challenge. We accept that challenge. We accept that the challenge involves many parties, but more can be done to govern responsible new development in close proximity to rail operations.

Also, we need to curtail new crossings, especially over main-line operations. Every new crossing increases the risk of an unfortunate accident. We support VIA's comments in this area calling for regulations prohibiting the construction of new crossings, unless it can be shown clearly that all other options have been fully reviewed and determined not to be feasible.

Another area in which we would like to build upon the panel's work is in regard to new technology. In its recommendation, the panel states that Transport Canada should take a leadership role in any and all technological and scientific advances that would improve public safety. While we support this statement, again, we think it should be emphasized that this and the other recommendations regarding the application of technology to improve the safety of our industry do not go far enough.

I cannot stress enough the importance of technology in enhancing railway safety and in taking our industry to new levels of safety. This is especially true in operating a railway in extreme conditions such as those of this winter, during which we endured record snowfalls. All tools—including tax credits and capital cost allowances, to name a couple—should be explored to increase the uptake of new technology.

The last point I want to make about using technologies to advance railway safety is that these technologies are not science fiction. Some tremendous advancements are being introduced, others are being tested, and many more are on the horizon within the coming years.

The photos you are seeing now are high-resolution images of a brake shoe and wheel flange. These photos were taken at 40 miles an hour and provide the best information we've ever seen to monitor the conditions of wheels and braking equipment.

Now you are seeing two new technologies being introduced at CP to monitor the condition of our track and ties. The equipment shown on the top left corner of the slide is our track evaluation car consist. It does many things to test and evaluate the condition of our track, but one of the newest technologies we have added to that equipment is joint bar imaging, shown in the picture on the top right part of the slide. Again, those pictures of joint bars were taken at a high speed—in this case, 50 miles an hour.

On the bottom left part of the slide is a picture of a high rail truck with a device on the back that takes ultraviolet images of tie condition. The image it takes is shown on the bottom right part of the slide; that image was taken at night at a speed of 20 miles an hour.

With this new equipment, in 2007 CP inspected over 5,000 miles of track and was able to have better information than ever before on tie conditions.

The couple of photos I have shown you are just a small sampling of the technologies available to our industry now. Many others are being tested or even just being conceived. We are pleased to see the panel recognize the important need to bring greater focus in Canada to the research, development, and deployment of these kinds of technologies. CP believes great strides forward can be made in railway safety through facilitating the introduction of such technologies, and that the panel's work in this area is just the beginning of what will hopefully be a strong, renewed government focus.

In closing, I would like to reiterate that the culture CP is working hard to build puts safety and the environment first. This approach is not about words; it's about our actions and it's about how we conduct our business.

The illustration in slide 4 is a protocol that is reinforced with all our employees. It was referred to by the panel in this report. The protocol is quite simple and makes clear the order in which we do things if there is an incident.

The first step is to protect the community and our employees' safety. This happens by working with local leaders and emergency services. The second step is to mitigate and remediate any environmental impact. The third step is investigation, so that we can learn from and understand what caused the incident. Finally, the fourth step is to restore railway operations.

This is how we work, and we are proud of our record. In regard to the panel's report, again, we think the report is thorough and constructive. We urge the committee to look at the panel's report and recommendations in that light.

I'd like to thank you for this opportunity. We would be pleased to take any questions you might have.

•(1230)

The Chair: Go ahead, Mr. Bell.

Mr. Don Bell: First of all, I'd like to again apologize to CP. You were set up with your overhead projector and ready to go on a presentation to this committee, and because of an unrelated debate we got into, you weren't able to. I appreciate the fact that you're back.

I was one of the presenters before the panel. The same day I was there in Vancouver making my comments, the president of CP Rail was there. He made it very clear at that time that safety was their number one concern, without any reservations. I was impressed with that.

You're aware of the testimony we had from Mr. Lewis, the chair of that committee, in relating to Mr. Watson's question. He thought CP was in the mid range: "They embrace it, but as Faye Ackermans says, it's a fragile thing. You have to be moving along and bringing everybody under the tent."

We have your acknowledgement and your comments that this is a priority; you're not where you could be or should be, perhaps, but you're well along, certainly, relative to the others. VIA had a better recommendation or opinion, and it was an off-the-cuff one-to-five response to Mr. Watson's question that brought it; nevertheless, I'm generally pleased with CP's approach and would encourage you to continue to ratchet up your efforts. I'm impressed with what I see here.

I would just reiterate for you the importance of addressing the employee fatigue issue, which we heard in testimony was a major problem for the employees. Employees are under pressure trying to operate these large trains with two people while having the responsibility to be alert and aware, and we know that in the Hinton case and in other examples, fatigue was the problem. You're addressing many of the technological and technical areas of the track and the cars, but I think the human factor is really important.

The role of health and safety employee committees again was something we heard was being ignored in many cases—not necessarily with CP, but I'm highlighting that as an area you need to maintain.

During the testimony—and we had phone-in testimony at one point—we heard that CP did a pretty good job in terms of community relations. You've identified proximity issues as an area of concern. That's going to be multi-jurisdictional; it's going to be regional governments, municipal governments, and the railways. When we heard the testimony for British Columbia, we heard comments that CP at least returned the phone calls and had people come out—I'm referring to Langley, Richmond, and New Westminster—so I think your community relations people are to be congratulated. Again, more can be done, because the communities generally felt they were not listened to as well as they could be or should be by the railroads, but they made particular comment that CP made the effort.

I would just remind you that, as you stated, we're talking about the safety of the railway workers, we're talking about the safety of the public, and we're talking about the safety of the environment. We've seen in Lake Wabamun and the Cheakamus River the disastrous

effects that a derailment can have. We have loss of fish stocks for maybe 50 years in the Cheakamus River. The environmental impact is not only on nature but also on the economy, because those fish-producing streams are important to the economy of the fishing industry.

We're also concerned, obviously, about damage to adjacent property. We've seen what can happen to communities built along the railway tracks in some of the pictures of train wrecks in the past.

I would be interested in getting something from you. You indicated that we didn't have the time here—and we certainly don't—to comment on the recommendations, but are there any that you in any way disagree with in this report? I would appreciate getting that in writing to this committee. As well, if there is any area where you think the panel maybe hasn't gone far enough, I would appreciate those comments as well.

Other than that, you heard my comments and questions a few minutes ago to CN here, so I'm not going to take the time to repeat those. This was a concern because of what was happening. Certainly in my case it was prompted by what I saw happening with CN, but we've had derailments and problems from CP as well. Those are going to occur by the very nature of railway operations, but they've got to be minimized to the maximum extent.

•(1235)

As a result of the initial motion, the investigation by this committee, and the minister's decision to appoint a panel, I'm hoping we'll see an improvement—a significant improvement—in rail safety in Canada.

Thank you for appearing.

Mr. Brock Winter: Thank you. I appreciate your comments.

We're not satisfied with our safety performance, either on train accidents or personal...and I would say it's a journey. We've made great progress and we have more to go. We're very focused through our disciplined process. We're very much supportive of the safety management system.

I can tell you that we've been at the safety management system before it was coined a safety management system, starting in 1995. At that time, if you went out on the property and asked our employees to give you the specific 12 elements of the safety management system, they couldn't have given you the specific terminologies, but I think you would have found, as Mr. Lewis did, that they could give you many of the elements in their own words. I think that's an indication of driving that through the health and safety committee process to understand what we're trying to achieve from the bottom up.

The Chair: Go ahead, Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Thank you.

I may go back to the safety management system before we're through, but here's my first question.

You have electronic equipment to check your track and your equipment. How many kilometres of track do you own? How much equipment do you have? How long does it take you to inspect your network using the electronic equipment you currently have?

[English]

Mr. Brock Winter: Thank you for the question.

Our network is approximately 14,000 miles. On any given day, as of today, we have 58,000 rail cars moving. We have over 500 trains moving across our network in Canada and in the United States as we speak. Under regulation we are required to inspect visually every 48 hours, and we have testing equipment, including the track evaluation car that I showed you, plus other technologies, such as Sperry. Depending on the density of traffic and its location on our network, we have certain standards to which we test certain parts of our network up to once a month with these special pieces of equipment.

It's very much a combination of visual regulatory inspection combined with electronic inspection on a regular basis. Using that data, we then target our replacement and repair activities on a proactive basis.

[Translation]

Mr. Mario Laframboise: That's fine.

What electronic equipment do you have to check track in Quebec?

[English]

Mr. Brock Winter: In Quebec we have two track evaluation cars. We contract out what we call our rail testing with a company by the name of Sperry Rail, Inc. We have literally hundreds of devices. I don't know specifically how many we have in the province of Quebec, but we have literally hundreds of wayside detection devices across Canadian Pacific.

I could get that information for you.

• (1240)

[Translation]

Mr. Mario Laframboise: I would very much appreciate it if you sent it to me. Are you currently making any acquisitions? Is there a budget? You've no doubt made plans. Do you have all the equipment you need? Do you have a medium-term project to acquire other equipment or do you have everything you need in the way of electronic inspection equipment?

[English]

Mr. Brock Winter: We are constantly looking at new technologies and new equipment. As part of our planning process, we believe, as I said earlier, we will see an escalation of technology capability. In terms of moving forward on this as per Mr. Lewis' recommendation, we believe that with the help of Transport there is more opportunity to move this faster. Regardless of that, in many cases we at CP far exceed the minimum standards that currently exist in the regulations in terms of track inspection. That applies to both human inspection and to the use of new technology.

[Translation]

Mr. Mario Laframboise: I'm going to focus on one specific recommendation, Recommendation 40, which reads as follows:

Railway companies should file annual environmental management plans and regular compliance audits with Transport Canada. These plans should address, among other issues, pollution of railway property (i.e., yards and railway rights-of-way).

We noticed in the report, especially starting at pages 147 and 148 of the English version and pages 168 and 169 of the French version, that there are environmental problems that you still haven't adequately solved. That somewhat summarizes the comment. Do you agree with Recommendation 40, that is that there should be a planning process and that you should have to file an environmental management plan and proper audits every year?

[English]

Mr. Brock Winter: We do extensive environmental planning, and yes, we do agree with the recommendation. We would like to explore further with Transport and the committee and the advisory panel as well, to potentially strengthen those recommendations. But we believe that environment is equally important to incident safety. So yes, we do agree with that.

[Translation]

Mr. Mario Laframboise: I'll finish with the safety management system. As you know—my colleagues mentioned this earlier—you are in the middle of the safety management system scale. One of the problems with SMSs is that they've been around for seven years. They've been in effect since 2001. You added that you had already started in 1995 at Canadian Pacific. You must be aware that the finding in this report is that SMSs haven't produced the results they should have produced. So there is a safety management problem and a problem with the entire concept, even at Canadian Pacific. I hope you are aware of that and that you want to improve. I hope you are aware of the finding that Mr. Lewis made in his report.

[English]

Mr. Brock Winter: I'm absolutely aware of Mr. Lewis' comments. As I said earlier, it's a continuous journey. The rating of between a three and a four is something that I think is an accurate assessment of where Canadian Pacific is at right now.

We believe that our long-term output safety matrix, where we want to be in terms of the number of safety accidents and personal injuries and environmental situations... We have a very, very aggressive target in our multi-year plan, and the only way we're going to get to that level of result... Again, inputs are most important, and we believe we absolutely need to move to this greater interface and effectiveness with our health and safety committees.

We talked earlier about encouraging employees to come forward. We very much want to do that and to continue to work on building trust with our employee base, both with our managers and our employees. Our managers are members of those health and safety committees. They sit on those committees.

We, at CP, are moving to a pilot. It happens to be in the United States, in Wisconsin. It's a close-call reporting pilot with regard to train accidents. We're the second railway in North America, after the Union Pacific, to be involved in this close-call reporting pilot. We're very proud of that. Again, that's about having our employees report—unfortunately, to a third party at this time—and that third party will provide that information back to the railways. Again, it's all around close-call reporting.

I'm not satisfied that the level of trust is where it needs to be. We have 126 years of history at Canadian Pacific. But I do think we're moving in the right direction in piloting different techniques to encourage employees to bring forth potential close-call incidents without the fear of being disciplined.

That being said, I must admit there are circumstances where there's negligence or wilful disregard for rules and regulations and practices. We need to think about how we're going to deal with that in terms of the immunity question, because it's not an easy, simple issue to deal with. But we are working through that, and we hope to learn a lot from this particular pilot sponsored by the federal railway administration in the United States. Of course, we're very interested in doing likewise here in Canada with Transport Canada.

• (1245)

The Chair: Mr. Masse....

Mr. Jean.

Mr. Brian Jean: On a point of order—I'm sorry to interrupt, Mr. Masse—Mr. Laframboise asked for a breakdown of the safety equipment available in Quebec. Since he's going to provide it to the committee, I'm wondering whether we could have a breakdown of the amount of track per province and that breakdown of the equipment per province. I think it would be helpful to see the correlation with accidents.

Mr. Brock Winter: Absolutely. No problem.

The Chair: Thank you.

Mr. Masse.

Mr. Brian Masse: I apologize. After I ask my questions, I have to be somewhere. I'll leave prior to you, but thank you for being here.

I want to go to your chart here and get your interpretation. According to the statistics between Canada and the United States, there's a significant difference with regard to accidents. Also, it appears that since 1997 you've levelled off at a certain point and you haven't been able to get beyond that point. Is there a particular reason? Do you have some insight as to what needs to be done to go even further, if it's even possible in your opinion?

Mr. Brock Winter: That's a very good question. Again, these are frequencies. But let me talk about the actual number of accidents and the difference between FRA reporting....

I would agree with Mr. Miller's comments in terms of recommendations. We can go further on the panel's recommendations on the data capturing and how we use the data. Frankly, the FRA data we are required to report in the United States gives us much greater granularity around accidents and the cause of accidents.

For clarification, an FRA accident is an accident that roughly costs more than \$8,500 to rectify, not including lighting damage. That's just the cost of repair. Anything less than that is a non-FRA train accident.

The chart on FRA train accidents in 2007 that you see represents 90 accidents on the Canadian Pacific Railway that cost more than \$8,500 to rectify. Of those 90 accidents, about 45 were in yards and 45 were on line of road. This is the tip of the iceberg. When you go

below the iceberg to be more consistent with the TSB reporting, there are approximately 1,100 non-FRA accidents—the accidents that cost less than \$8,500 to rectify.

To your question of whether we think we have levelled off, when you look at the total accident community, of the 1,200 accidents, including the FRAs, I believe you'll see a trend of reduction there. And I believe we can bring that level of accidents down further. As you see, in 2007, according to this matrix, we essentially had two accidents per million train miles.

Our objective within four years is to get to one accident per million train miles, so essentially to see another 100% improvement in that level. Is that going to be difficult? I believe it is. It's an aggressive target. It is one that is discussed and set with our board of directors, and they're encouraging us. So the next question is how you do it. I do believe that the panel's recommendations, some of the technologies I shared with you, and the human factor of what we're talking about are the key drivers in how we're going to drive those accidents to a much lower level than we see today.

Mr. Brian Masse: In terms of accountability to get there—and I asked this to Mr. Miller—will it just be on the employees, or will it actually go to management, all the way to the top as well? What is the culture of CP to bring accountability to successfully making those objectives for everyone, and if they can't be reached, what is the next stage?

• (1250)

Mr. Brock Winter: I can tell you that there is absolute joint accountability. I hesitate to talk about incentives, but I can tell you that my president has incentives, I have incentives, and our employees have “gain share” proposals in our collective agreements. We're all incented to the same goal of reducing both personal and train accident safety....

Mr. Brian Masse: Okay.

If I can move then to the report, the public outreach component is very important. Unfortunately, in my riding, CP has had a number of different land use conflicts with the municipality and residents and so forth. But there have also been some positive things, the most recent being the allocation time to have training by the fire services for hazardous materials and dangerous goods.

Can you highlight where you're going with that philosophy? I understand it took a long time to get this. It was very successful and very much appreciated. A lot of different, very dangerous chemicals could be exposed, not only in the immediate adjacent area, but beyond that. What other municipalities are you doing this with, and what is your plan to deal with hazardous materials?

In the United States they actually have laws that prevent certain materials from going into larger municipalities—for example, Cleveland and Washington and so forth. There are restrictions. They've also been able to reduce having such materials, for instance in the Dayton and the Miami area. They moved chlorine off and substituted another substance for a pollution control centre.

What's your plan in working with municipalities, the types of materials you're preventing from even having to go to destination, or having very strong prevention plans or accident control when it does happen?

Mr. Brock Winter: There are two questions in there.

First, I'd just like to say that most dangerous commodities, which we call toxic inhalation commodities—chlorine, anhydrous ammonia, etc.—today are not restricted to any location. Restrictions and regulations are being developed, as we speak, in the United States, and we're working very closely with Transport to implement something similar to that in Canada. So I think we can and are taking precautions with regard to handling dangerous commodities. That's number one.

Number two, with regard to community outreach, we see that as very important. In my remarks I said that we have an extensive outreach program. Last year we conducted approximately 30 tabletop exercises with various communities—not the same communities. Obviously we traverse some 900 communities across Canadian Pacific, and we're working extensively on a graduated basis with those communities to ensure that we know each other, the protocols, and the emergency responders, and that we do the training. We find that helps immensely.

It also helps immensely, by the way, on proximity issues, just because of the relationship we have. We actually conducted five to six mock disasters, which we do on an annual basis with various communities, again on a rotating basis, to ensure that we literally go through a very detailed mock disaster as if a real one did occur. Then we do detailed follow-up and an audit after that to make sure all of the parties were comfortable with how we reacted. It's a critical part of our community outreach on a go-forward basis.

The Chair: Mr. Shipley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you very much, Mr. Chairman.

Thank you, Mr. Winter and Mr. Wilson, for coming. I think your comments have been as much for us to have documented as for us to learn about. Actually, I'm impressed with your attitude about where you put safety and environmental concerns.

One of the things you just talked about, and I was going to ask about, is building trust and outreach with the communities. I was involved as a mayor of our municipality a number of years ago when we did the actual mock disaster with all the emergency people. One of the things that struck me at my first debriefing after what I called a major derailment in my municipality was the attitude to learn and then take that out to the community. We need to get rid of perceptions and put realities into place about safety and what that actually is in our communities. I would recognize that for you.

Another one of the things I was keen on was that you gave full access to the panel. I think that spoke wisely of your initiatives also.

We talked about where we are on a scale of getting from number one to ten. In this case I guess it's to five. Somewhere in there you've agreed with the panel where you see—sort of where number three is—safety as a risk management tool. At number four, basically you see it as an opportunity, and you leverage that with your economic benefit that you can get from your companies. A trigger goes at some point in time where if you do it right, it actually isn't a cost, it is an opportunity to be good for your business and good for the community, and then at the end, it's fully integrated.

You've been going for about 10 or more years, you mentioned, and I look at your chart here of what your safety employees say. I'm wondering, over that 10 years—you have a little way to go, you're at three or four—how do you plan on getting to that next stage and what sorts of goals do you have to get there?

• (1255)

Mr. Brock Winter: It's a very good question.

We challenged ourselves. You get to a plateau, and how do you get to the next level of sustained improvement? I have to tell you that we've been investigating a lot around the philosophy of just culture. Again, the just culture approach isn't one of discipline; it's really working with all employees to understand why human errors occur. I'm not going to suggest to you for a moment that the field of human factors and understanding what a human is thinking at the time of a human factor accident isn't extremely complex, but I do think that we at CP need to move to that level of understanding before we can get to the next level of safety culture.

So again it does come back to this—and don't misunderstand what I'm saying, it's going to be a very difficult journey here—to getting employees to come forward without the fear of some type of penalty. We're moving down that path. We're looking at very different approaches to make that happen, one being the close call that I referred to earlier. But clearly, from our manager's perspective, in his or her tool kit they have had the discipline capability in our world. It's based on the Brown military system of managing people. That's where the system came from. So frankly, to educate all of our employees, including our managers, over time.... Where it's warranted, we're moving away from the natural inclination to go to discipline and trying to get our managers and our employees and our workplace health and safety committees to really get to the bottom of the whys.

Mr. Bev Shipley: How many employees do you have?

Mr. Brock Winter: We have approximately 15,000.

Mr. Bev Shipley: When you're moving onto the safety management system, you're moving ahead. You indicated earlier that before it got tagged with that name you were into the process.

One of the recommendations was that you move away from rail safety inspector and the audit and you have one person. I guess it's called the rail safety officer now. How are you implementing that? How are you engaging the people to accept? Are you offering training? Does it take a lot of training or upgrade of education?

Help me understand what you've done to accomplish that, or if you have yet.

Mr. Brock Winter: I think the railway safety officer is the new inspector title Transport Canada is looking at, not the railways. I do agree with Mr. Lewis' and the panel's recommendations with regard to the training and requirements for Transport as well.

Mr. Bev Shipley: You're on a steady increase in terms of acceptance by your employees of what they feel you're doing to improve safety. You do this every two years. Do you see that continually moving at about 7% a year or whatever it is? At the end of 2007, would you have that graph still going in the same direction?

Mr. Brock Winter: I sure hope so. I believe the actions we're taking will enable us to do that. I'm confident we'll continue to see continual progress. If we don't, from my perspective we'll need to regroup and look at why it's not continuing to trend up.

•(1300)

The Chair: Thank you, Mr. Shipley. Your time is up.

I promised I would have you out of here at one sharp, and it is.

We appreciate your time and hope you have a safe trip home.

Thank you.

For the committee's interest, on Tuesday, April 8, we'll be dealing with railway safety again, with the union representatives. I want you to start thinking about Thursday, April 10. We will be going in camera to discuss how we want to present the report as either an addendum to the book that's out right now or as an official report from the committee.

The meeting is adjourned.

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