

CP Rail responses to CBC News

October 19, 2020

CBC News to Keith Creel, CEO, CP Rail

Mr. Creel,

We are writing to request an interview with you about your handling, to date, of the tragic fatal runaway derailment of CP Train 301 on Field Hill on February 4, 2019 that killed three of your employees.

Last week, you honoured Dylan Paradis, Andy Dockrell and Daniel Waldenberger-Bulmer by hosting a memorial for their families.

At that memorial, those families delivered to you formal written letters asking you, as CEO of CP Rail, to request the RCMP to conduct an independent criminal investigation.

They echo similar calls for an RCMP probe by the railway union, TCRC, as well as a former CP Police Service officer, the former lead investigator from the Transportation Safety Board, and an independent lawyer and expert in criminal negligence who has reviewed the case:

"There's a compelling case on the facts of criminal negligence, corporate criminal negligence.... {CP Police} Terminating the investigation a month into the investigation when all of this material wasn't covered — that generates huge suspicions in itself as an additional act of obstruction, so in my view it's a very serious act of obstructing justice." - Leo McGrady, Q.C., lawyer BC

On September 23, 2020 Transport Canada issued a directive to CP, stemming from its Canadian Labour Code review of the deaths, also finding CP failed to properly mitigate the hazards of running loaded trains down the mountain.

You have thus far declined to request an outside police investigation by RCMP.

Your CP Police Service has formal jurisdiction in the case but has thus far declined to investigate CP - their own employer.

The RCMP has clearly stated its willingness to conduct an independent investigation - pending a request by CP.

This is in your hands.

You told CBC News January 6, 2020 that you want answers:

"We're always gonna have a moral obligation to the families of the field house. I personally met with the families and, essentially, my commitment to those families is to treat those families the same way I would want my family to be treated. That was a tragic accident. People doing their jobs, coming to work. A collective group of railroaders doing their jobs. They lost their lives. That's forever going to affect this company and it's forever going to be in the fabric of who we are. It defines us - how we learn from that, how we grow stronger as a result of that. How we become a better company and a better group of railroaders as a result of that." - Keith Creel, CEO CP Rail

Will you do as these grieving families request, in their letters to you?

"This should have been treated as a crime scene from the start and I want the RCMP to investigate. My family has been shattered, I want the truth and I want justice for my son." - Les Paradis, Dylan's father

"Mr. Creel will you please do the right thing by having the RCMP do a proper investigation as to why Train 301 derailed and killed these three honourable men on Feb. 4/19! We, the families of Daniel, Dylan and Andrew, deserve to know the truth! We owe it to our three men to have the truth!" - Cari Waldenberger, Daniel's mother

"I am a Christian woman and have been taught to forgive, forgive you your lies and forgive you I will try. But forget that you promised to treat us as you would your own family? No, Mr Creel, I do not see that happening. I do beg to you to actually do as promised. Have a complete, transparent, full investigation done by the RCMP." - Ethel Nesbitt, Dylan's grandmother

CBC fully understands that during the on-going safety and labour investigations, you and CP do not want to talk about the specifics that lead to the crash.

We respectfully request an interview - not about the crash itself - but rather about your handling of this tragedy, your refusal to date to request an independent police investigation, and to respond to the requests of these families.

CBC intends to publish a story later this week and request confirmation you have received this, and ask you to consider granting a video interview in the next two days.

Please be in touch to discuss further.

Sincerely,

Dave Seglins

October 21, 2020

CP Rail spokesman Jeremy Berry replies to CBC News

The February 4, 2019 tragedy near Field, B.C. is never far from the minds of Canadian Pacific and its employees. CP remains steadfast in its commitment to continually improve safety, to honour those lost and to ensure every employee gets home safely, every day.

As noted previously

(<https://www.cpr.ca/en/media/cp-corrects-inaccuracies-in-cbc-reporting-of-field-b-c-derailment>), the RCMP was immediately on-site post incident and the RCMP always has the legal authority and jurisdiction to investigate as it sees fit. The RCMP issued a press release on February 4, 2019 outlining its involvement. As a matter of law, the RCMP has jurisdiction throughout Canada, including on CP's property.

CP has recently received a direction from Employment and Social Development Canada/Labour Program ("ESDC"). The direction, under the Canada Labour Code and pursuant to Part XIV of the On Board Trains Occupational Health and Safety Regulations, alleges that CP failed to identify and assess the hazards associated with operating a loaded train on the Field Hill.

CP has been cooperating with ESDC in its investigation and will continue to do so. CP is reviewing this direction and will seek clarification given employees operating on CP's Laggan Subdivision have been fully trained on how to operate and handle the specific conditions that the Laggan Subdivision presents. CP has had in place for decades specific operating protocols and procedures for the Field Hill, long before any regulatory requirements were imposed. It was developed collaboratively by a team of cross-functional stakeholders, including representation of unionized employees. CP conducts regular risk assessments and meets or exceeds Transport Canada's regulatory requirements including all Safety Management System requirements. CP is well aware of the unique operating challenges over its vast and varied network and trains its people and implements protocols to address those challenges.

We continue to cooperate fully with the Transportation Safety Board (TSB) in its ongoing investigation. As part of its own internal investigation, CP has taken steps to further improve safety and will address actions recommended by the TSB, should there be any, after the TSB releases its report to the public.

CBC News reply to CP Rail spokesman Jeremy Berry

Jeremy,

Well received. Thank you.

A few clarifications.

2) What is CP doing to ensure it is no longer in contravention of the Code by Friday October 23, 2020 as required under the directive?

3) Or, is it CP's position that the company is not in contravention of the Code, as detailed in the direction?

4) Has CP - or will CP - be appealing this direction?

Hoping you can respond by end of day?

Many thanks in advance.

DS

CP Rail spokesman Jeremy Berry response to CBC News

CP does take the position that there has been no contravention of the Canada Labour Code as alleged. CP is reviewing this direction and will seek clarification given employees operating on CP's Laggan Subdivision have been fully trained on how to operate and handle the specific conditions that the Laggan Subdivision presents.

Thanks
Jeremy