



**IN THE MATTER OF THE *CANADA LABOUR CODE*  
PART II – OCCUPATIONAL HEALTH AND SAFETY**

**DIRECTION TO THE EMPLOYER UNDER SUBSECTION 145(1)**

On September 16, 2018, the undersigned official delegated by the Minister of Labour began an investigation in the work place operated by HUDSON BAY RAILWAY COMPANY, being an employer subject to the *Canada Labour Code*, Part II, at mile point 99.5 of the Wekusko Subdivision, the said work place being sometimes known as Ponton, Manitoba.

The said official delegated by the Minister of Labour is of the opinion that the following provisions

**No. 1**

**Paragraph 125 (1)(s) of the *Canada Labour Code* Part II.**

The employer failed to inform operating employees of a known hazard in the workplace. From September 10 to 13, 2018, one (1) inspection and two (2) follow up inspections were conducted specifically at mile 99.5 and the Wekusko subdivision. These inspections identified an issue with water drainage at that location following a year of excessive precipitation, beaver activity and an obstructed culvert. Increased water levels can weaken the track subgrade, thereby reducing the capacity of the track to support passing trains.

On September 10, 2018, after water was observed on the rail at mile 99.5 a speed restriction of 10 mph was put into place as VIA 692 proceeded under direct observation of track forces. Later that day corrective measures were taken to improve the conditions at the location and the speed restriction was subsequently removed. Following discussions with management a culvert replacement and further track work at this location was authorized but would be held off until water levels had lowered. However, no subsequent warning of the situation was communicated to employees operating in the area, and no preventative measures, such as providing on-going monitoring of the culvert, were implemented to protect these employees. On September 15, 2018, HBR 995 proceeding on the track encountered unsupported track, due to subgrade failure, causing their train to derail resulting in the fatality of the Conductor and a severe disabling injury to the Engineer.

**No.2**

**Paragraph 125 (1)(z.03) of the *Canada Labour Code* Part II, subsection 19.1(1) – Canada Occupational Health and Safety Regulations, pursuant to Part XIV of the On Board Trains Occupational Health and Safety Regulations.**

The employer has failed to establish a Hazard Prevention Program that complies with each of the components prescribed by subsection 19.1(1) of the Canada Occupational Health and Safety Regulations.

No. 3

**Paragraph 125 (1)(p) of the *Canada Labour Code* Part II, paragraph 13.7(1)(c) – On Board Trains Occupational Health and Safety Regulations.**

The employer has failed to prepare, in consultation with the work place committee or the health and safety representative, emergency procedures to be implemented in the event of an accident involving a train, including accidents that occur in a remote location with limited or intermittent radio service or in cases where the train fails to arrive at an identifiable location within the agreed upon time period.

No. 4

**Paragraph 125 (1)(h) of the *Canada Labour Code* Part II, section 12.6 – On Board Trains Occupational Health and Safety Regulations.**

The employer failed to ensure that there is an ambulance service or other suitable means of transporting operating employees in remote locations who have an injury, occupational disease or illness to a hospital, medical clinic or physician's office, and failed to provide that work place a means of quickly summoning the ambulance service or other suitable means of transportation. This accident was discovered by chance and reported to RCMP approximately 1.5 hours after the accident by a commercial helicopter pilot in the area. It was many more hours before specialists arrived on the scene to assist the casualties with first aid, pain relief and a suitable means of transportation to a hospital.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(1)(a) of the *Canada Labour Code*, Part II, to terminate the contraventions no later than May 1<sup>st</sup>, 2019.

Further, you are HEREBY DIRECTED, pursuant to paragraph 145(1)(b) of the *Canada Labour Code*, Part II, within the time specified by the Official Delegated by the Minister of Labour, to take steps to ensure that the contravention does not continue or reoccur.

Issued at **Winnipeg**, this 9th day of January, 2019.



Judith L. Harris  
Official Delegated by the Minister of Labour  
Transport Canada Rail Safety Inspector  
Id. No.: ON1926

To: Mr. Kent Affleck, General Manager, Hudson Bay Railway  
728 Bignell Avenue  
The Pas, Manitoba R9A 1L8

cc. to: Mr. James Connor, Superintendent, Hudson Bay Railway  
728 Bignell Avenue  
The Pas, Manitoba R9A 1L8